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THE

JUDGES OF ENGLAND;

WITH

SKETCHES OF THEIR LIVES,

AND

MISCELLANEOUS NOTICES

CONNECTED WITH

THE COURTS AT WESTMINSTER,

FROM THE CONQUEST TO THE PRESENT TIME.

4977

BY EDWARD FOSS, F.S.A.

OF THE INNER TEMPLE.

29810

VOL. VII.

CONTAINING THE REIGNS OF

CHARLES II., JAMES II., WILLIAM III., AND ANNE.

1660—1714.

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LONDON:

JOHN MURRAY, ALBEMARLE STREET.

1864.

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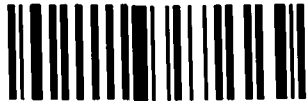
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INTRODUCTION.

In undertaking this work, I did not contemplate its extension beyond the reign of George III.; and it was more with hope than expectation, that I ventured to indulge the wish to reach so distant a period from its commencement. But health, strength, and leisure having been permitted to me to conclude my proposed labour, it was suggested to me that the work would be more complete and more satisfactory, if I continued it to the present day. I therefore entered upon the new task of forming an additional volume, comprehending the three subsequent reigns.

The principal objection that I anticipated, and the principal difficulty I found, was that it compelled me to introduce the present members of the bench: but in the resolution which I at once formed, to limit my account of them to little more than the formal mention of the facts already publicly given in the peerages and other periodical lists, and to avoid offering any opinion on their respective judicial merits, which it would be an impertinent presumption in me to criticise, I felt assured that I might avoid the difficulty, and, in pursuing it, I hope I have succeeded so as not to give unnecessary offence.

If the notices I have offered of some of the living judges are extended beyond the limit I had thus prescribed to myself, I am proud to owe the additional material to the

encouraging kindness of those among them—extending to nearly twenty, acting and retired—who have deemed my former sketches not quite unworthy of their approbation. To them I beg to express my grateful acknowledgments.

Of the three volumes now submitted to the world, the first completes the legal history of the Stuart dynasty; and the remaining two contain that of the Hanoverian family, including the reign of Victoria. In these three volumes are included notices of the lives of 266 judges, in addition to 1323 recorded in the six previous volumes; and though I cannot expect that all of the 1589 lives thus given are minutely correct, I can truly say that my most diligent efforts have been exerted to avoid any substantial error. I have been gratified that no material blunder has hitherto been pointed out by my critics, who have treated me with a kindness and consideration which I had no reason to anticipate; but, to speak in the military language of the present day, though I have passed through many general *reviews* with approving remarks, I fear that in a minute *inspection* many deficiencies may be discovered.

To rectify these will be my earnest endeavour; as it has been my anxious wish from the outset to produce a work—the want of which was universally felt—on which full confidence should be placed—a work which, while it gave a truthful biography of all the English judges, should also contain an accurate history of the progressive changes in the superior Courts of Westminster Hall. My labours to effect this consummation have been the delightful employment of a long series of years, encouraged as they have been by many whose opinions command respect, and assisted by all to whom I have applied for aid and information. How far those labours have been successful my critical readers will judge: I look with some hope, but more anxiety, for their verdict.

To the last volume I have appended, according to my original promise, an Alphabetical List of all the judges whose lives have been noticed in the course of the work; showing in what reigns they respectively held office, and distinguishing the several courts in which they sat. I believe that this list will be found very useful for general reference.

I cannot conclude my work without recording my deep sense of gratitude to those who have aided my investigations. The list of my kind correspondents would be a very long one, were it proper to publish it. My pride would be abundantly gratified by a record of their names, but I fear it would be merely deemed an exhibition of my vanity. To the clergy particularly I am indebted for the readiness with which they have answered my inquiries; and to the officers of the various Inns of Court and Chancery I am peculiarly bound to be grateful for the facility which they have invariably given in tracing the admissions, &c., in their respective Houses.

EDWARD FOSS.

Churchill House, Dover:
October 1864.

THE

JUDGES OF ENGLAND.

CHARLES II.

Reigned—from his father's death—36 years and 7 days, from January 30, 1649, to February 6, 1685; from the Restoration, on May 29, 1660—24 years 8 months and 8 days.

SURVEY OF THE REIGN.

ALTHOUGH for more than eleven years after the tragical death of Charles I. the heir to his throne was in exile, and the government of the kingdom was administered by usurped authority, on the restoration of Charles II., the years of his reign were calculated as if they had suffered no interruption, his first official and legislative acts being dated as of the twelfth year of the king. By one of the first statutes, all proceedings in private causes, which had been commenced under the various processes of the Interregnum, were legalised; but the valuable Act for the introduction of the English language into the pleadings, was not allowed to be in force beyond August 1, 1660. From that date the absurd use of "an unknown language" was renewed, and continued to be employed for seventy years longer, till in the reign of George II. English was again substituted by an Act of the legislature, and litigants were permitted to understand the allegations for and against them.[1] Many

[1] Stat. 12 Car. II. c. 3, s. 4; 4 Geo. II. c. 26; 5 Geo. II. c. 27.

new statutes, however, for the reformation and amendment of the law were enacted during this reign. Among them was the important and useful "Act for Prevention of Frauds and Perjuries," 29 Car. II. c. 3; and that securing the liberty of the subject, 31 Car. II. c. 2, commonly called the Habeas Corpus Act.

By the king's restoration, without being previously subjected to any conditions, the opportunity was lost of removing some of the superfluous cogs that impeded the wheel of the Constitution, and of remedying such of the grievances as were left unredressed amid the recent convulsions. All of these were overlooked or forgotten in the effervescence of loyalty consequent on the king's return; but when that had in some degree subsided, the spirit of resistance gradually reappeared. The uncompromising supporters of prerogative, and the violent partizans of popular rights, were again pitted against each other, the one being distinguished by the name of Whig, and the other by that of Tory—nick-names of Scotch and Irish extraction, which, though at first applied as terms of opprobrium to each other, were afterwards adopted by both as political and party distinctions; and which, after dividing the political world for a couple of centuries, are only now dying out, or losing their former significance in a multitude of undistinguishable subdivisions. Each of the factions attacked the other with all the bitterness of personal animosity, both of them believing—or pretending to believe as it suited their immediate object—that upon the success of the principles they advocated depended the well-being of the State and the very existence of the monarchy. Lawyers, and even the law itself, were not exempt from the baleful influence.

Whatever opinions may be entertained on the general merits or demerits of the actors in the Great Rebellion, all parties must allow that, judging from most of the legal ap-

pointments, it was the desire and endeavour of the usurping powers to keep the course of justice uncontaminated, and to preserve respect for the administration of the laws. With few exceptions, the judges of the Interregnum were men capable and respectable, and, in some instances, of high character and attainments. Out of the thirty-five individuals who sat on the bench during that time, eleven died before the Restoration [1], nine retired or were displaced [2], and, of the fifteen who were in office at the king's return [3], three were restored to judicial seats before the reign was closed [4], three more were reinstated in their former degree of the coif [5], and, adding to these the eminent names of Matthew Hale and Edward Atkyns, and also that of John Glynne, out of those who had retired during the Interregnum, there were no less than nine members of the judicial body who were deemed worthy to be recognised by the new government.

From this fact it may fairly be inferred that the restored powers were impressed by the same desire to fill the bench of justice with men of purity and learning. The other legal appointments at that time were equally unobjectionable;

[1] Henry Grey, Earl of Kent, and John Bradshaw, of the Chancery; Henry Rolle, Philip Jermyn, Richard Aske, and Peter Warburton, of the Upper Bench; Peter Phesant and John Puleston, of the Common Pleas; and Thomas Gates, Alexander Rigby, and Richard Pepys, of the Exchequer.

[2] William Grey, Lord Grey de Werke, Bulstrode Whitelocke, John L'Isle, Richard Keeble, and Nathaniel Fiennes of the Chancery; John Glynne of the Upper Bench; Matthew Hale and Edward Atkyns, of the Common Pleas; and William Steele, of the Exchequer.

[3] Edward Montagu, Earl of Manchester, Sir Thomas Widdrington, Thomas Tyrrell, and John Fountaine, of the Chancery; William Lenthall, Master of the Rolls; Richard Newdigate, Robert Nicholas, and Roger Hill, of the Upper Bench; Oliver St. John, Hugh Wyndham, and John Archer, of the Common Pleas; and John Wilde, Francis Thorpe, John Parker, and Richard Tomlins of the Exchequer.

[4] Thomas Tyrrell, Hugh Wyndham, and John Archer.

[5] Sir Thomas Widdrington, Richard Newdigate, and John Fountaine.

and for several of the succeeding years no censure can be cast on the judges by whom the occasional vacancies were supplied. Till the discharge of the Earl of Clarendon, in 1667, they were competent and honourable men. But in the latter half of the reign, when the violence of party-spirit was at its height, and when one or the other faction had an object to attain, no hesitation was exhibited in removing those judges who were deemed too honest and conscientious, and in raising others to the judgment-seat who were cringing candidates for popular applause or courtly favour, and who were likely to prove supple instruments of the ruling powers. Thus we find, among those who were elevated, such men as Scroggs, Saunders, Jeffreys, Wythens, and Wright. Of the fifty-five individuals who held the judicial office during the twenty-five years of the practical reign of Charles, no less than twelve were removed for political causes, viz., of chancellors or keepers, the Earls of Clarendon and Shaftesbury and Sir Orlando Bridgeman; of chief justices, Sir Richard Rainsford, Sir William Scroggs, and Sir Francis Pemberton; and of judges and barons, Archer, Bertie, Bramston, Dolben, Ellis, and Wilde. To these may perhaps be added, Robert Atkyns and William Leeke, who retired probably on the same account. A direct proof of the attempt to render the judges subservient to the court is to be seen in the substitution of the old form in their patents, of "durante bene placito," for "quamdiu se bene gesserit," which had been conceded by Charles I., and had been adopted in all the earlier patents after the Restoration. Siderfin (i. 408) notices that in Sir Richard Rainsford's patent, in 1669, the former obnoxious words were used.

During this reign the Great Seal was always entrusted to lawyers, with the exception of the Earl of Shaftesbury, whose claim to that title did not extend beyond studentship. Though Lord Clarendon at first was virtually prime minister,

the office, from the time of his dismissal, held a lower, though still a highly influential rank in the administration; and the keeper of the Seal was gradually considered so intimate a part of it, that, if not in this, in every future reign, he was almost invariably removed when the party with which he was connected lost its ascendency in the councils of the sovereign. In the twenty-five years of the reign from the time of the Restoration, there were five holders of the Seal, three with the title of chancellor, and two with that of keeper; all of whom were ennobled, except Sir Orlando Bridgeman.

CHANCELLORS AND KEEPERS.

According to the inscription on Lady Lane's monument in the church of King's Thorp in Northamptonshire, her husband, Sir Richard Lane, the first lord keeper of the Great Seal to Charles I., retained the title during the short period that he survived his unfortunate sovereign. But even if this be a fact, it is certain that he never exercised in the reign of Charles II. any of the functions of his nominal office. From his death in 1650, the place was vacant for three years; indeed, from the time of the battle of Worcester (Sept. 3, 1651), when the Great Seal was lost, the king was without one, till a new one being engraved in Paris, he delivered it to

SIR EDWARD HERBERT, his attorney-general, in April, 1653, with the title of lord keeper. Sir Edward had not many occasions to use it, and surrendered it into the king's hands on his Majesty's departure from France in June, 1654. The king kept it for more than three years; and then, being at Bruges, entrusted it to

SIR EDWARD HYDE, the chancellor of the Exchequer, on January 29, 1658, with the title of lord chancellor; in which character he accompanied the king to England on the

Restoration. Soon afterwards he was created Baron Hyde of Hinden, and ultimately Earl of Clarendon. Discharged from his office on August 30, 1667, the Seal was transferred on the same day, to

SIR ORLANDO BRIDGEMAN, chief justice of the Common Pleas, as lord keeper; and was retained by him for five years and a quarter, when he was removed; and

ANTHONY ASHLEY COOPER, EARL OF SHAFTESBURY, on November 17, 1672, was made lord chancellor. He was dismissed in less than a year; and

SIR HENEAGE FINCH, Bart., the attorney-general, was constituted, on November 9, 1673, lord keeper, a title which was changed for that of lord chancellor on December 19, 1675, the king having in the interim honoured him with the Barony of Finch of Daventry, to which was afterwards added the Earldom of Nottingham. For nine years he held the Seal; on his death, it was delivered to

SIR FRANCIS NORTH, chief justice of the Common Pleas, as lord keeper, on December 20, 1682. He was elevated to the peerage in the following September as Baron Guilford, and kept his place till the king's death, on February 6, 1685.

The custom of providing the lord chancellor with a pension beyond the ordinary profits of the Seal, seems to have originated in this reign. Roger North (Life, 195) says, that Lord Nottingham had one; and that Lord Guilford, before he accepted the office, required and obtained one of 2000*l.* a year.

In 1677 the lord chancellor's mace and two privy purses were stolen out of Lord Nottingham's house; but the thieves missed the Great Seal, as his lordship slept with it under his pillow. Five were convicted at the Old Bailey, and one of them (Thomas Sadler), was hanged at Tyburn.[1]

[1] Hone's Year Book, 295; Wood's Ath. Oxon. Life, lxxvii.

Mr. Stringer's account of the Earl of Shaftesbury's family states, that when he was lord chancellor "the fines upon originals were worth about 2000*l.* per annum:" and that in "Lord Coventry's time, they have been worth three, and may be so again; out of which the clerk of the fines hath two shillings in the pound."

With respect to the chancellor's state, he says, "No servant went in the coach with his lordship but the purse-bearer. The serjeant-at-arms, the secretaries, and gentlemen walked on foot, and the footmen bare by the coach side. . . . When my lord went to take coach, or came out of his coach, all the gentlemen, &c., went before him bareheaded; and when he went to court, the mace and seal were carried before him to the presence-chamber door, and then his lordship takes the seal, and the serjeant lays down his mace."

There was then a custom on motion days at the chancellor's house, that "all the lawyers within the bar that moved, gave two shillings a piece, and they without one shilling;" which were put into a box and then delivered to one of the gentlemen ushers, amounting sometimes even to 5*l.* a day. This money was distributed by his lordship twice or three times in a year, to "the magistrates of such parishes as he thought fit, for the use of the poor whom they thought had most need."[1]

Masters of the Rolls.

John, Lord Colepeper, who had been appointed master of the Rolls by Charles I., held the same office during the exile of his son (though its duties and emoluments were usurped by William Lenthall), and resumed it at the Restoration. In six weeks after that event he died, and

Sir Harbottle Grimstone, Bart., succeeded to the

[1] Shaftesbury Papers, ii. 173–5.

office on November 3, 1660, and enjoyed it for twenty-four years.

The office was granted in reversion on August 15, 1677, to George Johnson, Esq., but he did not live to acquire it.

SIR JOHN CHURCHILL succeeded Sir Harbottle Grimston. His patent is dated 36 Car. II. p. 9, m. 3, January 12, 1685. The reign terminated before he had held office for a month.

MASTERS IN CHANCERY.

AFTER THE RESTORATION.

*Lord Colepeper, M.R.	12	Car. II.
*William Child	12 to 25	—
*Sir Justinian Lewin, LL.D.	12 to 24	—
†Thomas Estcourt	12 to 35	—
Thomas Bird	12 to 17	—
*Thomas Bennett, LL.D.	12 to 22	—
Moundeford Bramston	12 to 28	—
†Nathaniel Hobart	12 to 25	—
†William Glascocke	12	—
Walter Littleton	12 to 22	—
Sir Edward Pearce, LL.D.	12 to 19	—
Toby Woolrich [qy. LL.D.]	12 to 16	—
Sir Harbottle Grimstone, M.R.	12 to 35	—
John Coell	16 to 37	—
William Lisle	17	—
Richard Proctor	17 to 21	—
Thomas Croft, LL.D.	19 to 22	—
John Halsey	21 to 22	—
Robert Steward	22 to 24	—
Sir Timothy Baldwin, LL.D	22 to 34	—
Andrew Hacket	22 to 32	—
William Beversham	22 to 37	—
William Howell, LL.D.	24	—
Sir Edward Lowe, LL.D.	24 to 36	—
William Pargeter	24 to 25	—
Samuel Clarke	24 to 37	—

* These had been Masters in the reign of Charles I.

† These were Masters in the Commonwealth only.

Sir Lacon William Child - - -	25 to 37	Car. II.
Miles Cook - - - - - -	25 to 37	—
John Franklyn - - - - - -	27 to 37	—
John Hoskins - - - - - -	28 to 37	—
Adam Oatley - - - - - -	32 to 37	—
Robert Legard - - - - - -	34 to 37	—
James Astry - - - - - -	35 to 37	—
James Edisbury, LL.D. - - -	36 to 37	—
Sir John Churchill, M.R. - - -	36 to 37	—

At the Restoration the innovations which had been introduced during the Interregnum were set aside, and the masters, the six clerks, and the registrars of the Court of Chancery restored to their original constitution. In 1661 King Charles granted the latter office to Henry, Earl of St. Alban's and Baptist May for life; and in 1676 he granted the reversion, after their deaths, to trustees for Eleanor Gwynne, who, in the next reign, demised it to Charles, Duke of St. Alban's and his heirs, to whom it was afterwards confirmed by a grant from William III.[1]

Chief Justices of the King's Bench.

With the Restoration this court resumed the title of the King's Bench; but Richard Newdigate, its last chief justice under the former name of the "Upper Bench," though he was so far received into favour as to be made a serjeant by the king, was not suffered any longer to preside there. For the first five months the place continued vacant, when

Sir Robert Foster, a judge of the Common Pleas under Charles I. and the present king, was appointed on October 1, 1660, and presided in the court till his death three years after.

Sir Robert Hyde, one of the judges of the Common Pleas, succeeded him on October 19, 1663, and sat till May

[1] Hardy's Catalogue, 119.

1, 1665, when he died. The office remained vacant for almost seven months; at the end of which

SIR JOHN KELYNG, a judge of the same court, was raised to its head on November 21, 1665. He presided till his death, and was succeeded by

SIR MATTHEW HALE, lord chief baron of the Exchequer, on May 18, 1671. For nearly five years he graced the seat, and on his resignation of it,

SIR RICHARD RAINSFORD, one of the judges of the court, was put in his place on April 12, 1676. In little more than two years he was either removed or resigned, and

SIR WILLIAM SCROGGS, a judge of the Common Pleas, received the appointment on May 31, 1678; on whose dismissal, three years afterwards,

SIR FRANCIS PEMBERTON, who had been a judge of the King's Bench, but removed in the previous year, was made chief justice on April 11, 1681. On his being transferred to the head of the Common Pleas he was succeeded by

SIR EDMUND SAUNDERS, on January 23, 1683, who died on the 19th of the following June. The office then remained vacant for three months, when

SIR GEORGE JEFFREYS, king's serjeant, was appointed on September 28, 1683, and remained chief justice till the end of the reign.

JUSTICES OF THE KING'S BENCH.

XII.	1660. May 31.	Thomas Malet, a judge under Charles I.
	July 22.	Thomas Twisden
	Nov. 24.	Wadham Wyndham.
XV.	1663. June 18.	John Kelyng, vice T. Malet.
XVII.	1665. Nov. 23.	William Morton, vice J. Kelyng.
XXI.	1669. Feb. 6.	Richard Rainsford, vice W. Wyndham.
XXIV.	1673. Jan. 21.	William Wilde, vice W. Morton.
XXVIII.	1676. April 13.	Thomas Jones, vice R. Rainsford.
XXX.	1678. Oct. 23.	William Dolben, vice T. Twisden.

XXXI. 1679.	May 1.	Francis Pemberton, vice W. Wilde.
XXXII. 1680.	April 20.	Thomas Raymond, vice F. Pemberton.
XXXV. 1683.	April 25.	Francis Wythens, vice W. Dolben.
	Sep. 25.	Richard Holloway, vice T. Raymond.
	Oct. 22.	Thomas Walcot, vice T. Jones.

The judges of this court at the end of the reign were
Sir George Jeffreys, chief justice,
Sir Francis Wythens, Sir Richard Holloway,
Sir Thomas Walcot.

Chief Justices of the Common Pleas.

The office of chief justice of the Common Pleas after the Restoration (Oliver St. John, the chief justice during the Commonwealth, being, of course, displaced) remained vacant for five months.

Sir Orlando Bridgeman, the chief baron of the Exchequer, was then removed from that court to preside over this, his patent being dated on October 22, 1660. On August 30, 1667 he was made lord keeper of the Great Seal, but retained the chief justiceship for nearly nine months afterwards, when

Sir John Vaughan was appointed on May 23, 1668. On his death

Sir Francis North, attorney-general, was promoted January 23, 1675, and held the office till he was made keeper of the Great Seal; when he was succeeded by

Sir Francis Pemberton, chief justice of the King's Bench, on January 22, 1683, who eight months afterwards was removed, and

Sir Thomas Jones, a judge of the King's Bench, was promoted to be chief justice of this court on September 29, 1683, and so continued till the end of the reign.

Roger North, in the life of his brother, Lord Guilford, p. 96, says that the chief justiceship of this court was then worth about 4000*l.* a year.

JUSTICES OF THE COMMON PLEAS.

The two judges of this court just previous to the Restoration, John Archer and Hugh Wyndham, were not immediately re-appointed, though they both were eventually restored to seats on the Bench.

XII.	1660.	May 31.	Robert Foster, a judge under Charles I. Robert Hyde.
		July 27	Thomas Tyrrell, a commissioner of the Great Seal under the Commonwealth.
		Nov. 3.	Samuel Browne, a judge in 1648, loco R. Foster.
XV.	1663.	Nov. 4.	John Archer, a judge in 1659, loco R. Hyde.
XX.	1668.	April 16.	William Wilde, loco S. Browne.
XXIV.	1672.	April 15.	Robert Atkyns, loco T. Tyrrell.
		Dec. 18.	William Ellis, loco J. Archer.
	1673.	Jan. 22.	Hugh Wyndham, loco W. Wilde.
XXVIII.	1676.	Oct. 23.	William Scroggs, loco W. Ellis.
XXX.	1678.	June 15.	Vere Bertie, loco W. Scroggs.
XXXI.	1679.	April 30.	William Ellis, loco Vere Bertie.
XXXII.	1680.	Feb. 7.	Thomas Raymond, loco R. Atkyns.
		April 26.	Job Charlton, loco T. Raymond.
XXXIII.	1681.	Feb. 12.	Creswell Levinz, loco W. Ellis.
XXXIV.	1684.	Oct. 29.	Thomas Street, loco H. Wyndham.

At the king's death, the judges of this court were Sir Thomas Jones, chief justice, Sir Job Charlton, Sir Creswell Levinz, Sir Thomas Street.

CHIEF BARONS OF THE EXCHEQUER.

On the Restoration of Charles II. John Wilde, who was then chief baron of the Exchequer, was immediately set aside, and

SIR ORLANDO BRIDGEMAN received the office on June 1, 1660, only to hold it for about five months, when he was removed to the Court of Common Pleas as chief justice, and

MATTHEW HALE, serjeant-at-law, and who had been a judge under the Commonwealth, was appointed on Novem-

ber 7, 1660. On his being made chief justice of the King's Bench,

Sir Edward Turnour, solicitor-general, was constituted chief baron on May 23, 1671. On his death he was succeeded by

The Honourable William Montagu, attorney-general to the queen, on April 12, 1676, who filled the office during the remainder of the reign.

Barons of the Exchequer.

All the barons who sat in this court just previous to the Restoration were forced to retire, and

XII. 1660.	May	Thomas Leeke, cursitor baron, superseded by the Parliament in 1645, resumed his seat.
	June 23.	Edward Atkyns.
	July 7	Christopher Turnor.
XV. 1663.	March 9.	Clement Spelman, cursitor baron, vice T. Leeke.
	Nov. 16.	Richard Rainsford.
XXII. 1670.	Feb. 1.	Timothy Lyttelton, vice E. Atkyns.
	June 20.	Hugh Wyndham, vice R. Rainsford.
XXIV. 1673.	Jan. 24.	Edward Thurland, vice H. Wyndham.
XXVII. 1675.	June 4	Vere Bertie, vice C. Turnor.
XXX. 1678.	June 17	Francis Bramston, vice V. Bertie.
XXXI. 1679.	May 1.	William Gregory, vice F. Bramston.
	8.	William Leeke, vice T. Lyttelton.
		Thomas Raymond, vice E. Thurland.
		Thomas Crawley, cursitor baron, vice C. Spelman.
	June 22.	Edward Atkyns, jun., vice W. Leeke.
XXXII. 1680.	Feb. 7.	Richard Weston, vice T. Raymond.
XXXIII. 1681.	April 23,	Thomas Street, vice R. Weston.
XXXV. 1683.	March 17.	Richard May, cursitor baron, vice T. Crawley.
XXXVI. 1684.	Oct. 30.	Robert Wright, vice T. Street.

On the death of Charles II. the barons were

Hon. William Montagu, chief baron,
Sir William Gregory, Sir Robert Wright,
Sir Edward Atkyns, Sir Richard May, cursitor baron.

In the grant of the office of [cursitor] baron to Thomas Leeke, the fee is stated to be 100 marks a year.

COURT OF CHANCERY.

A.R.	A.D.	LORD CHANCELLORS AND KEEPERS.	MASTERS OF THE ROLLS.
1	1649. Jan. 30	Sir Richard Lane, *Keeper?*	John, Lord Colepeper
2	1650.	died	
5	1653. April	Sir Edward Herbert, *Keeper*	—
6	1654. June	resigned	
9	1658. Jan. 29	Sir Edward Hyde, *Chancellor*	—
12	1660. Nov. 3	*cr.* Lord Hyde	Sir Harbottle Grimstone
13	1661. April 20	— Earl of Clarendon	
19	1667. August 30	Sir Orlando Bridgeman, *Keeper*	—
24	1672. Nov. 17	Anthony Ashley Cooper, Earl of Shaftesbury, *Chancellor*	—
25	1673. Nov. 9	Sir Heneage Finch, *Keeper*	—
	1674. Jan. 10	*cr.* Lord Finch	
27	1675. Dec. 19	— *Chancellor.*	
33	1681. May 12	*cr.* Earl of Nottingham	
34	1682. Dec. 20	Sir Francis North, *Keeper*	—
35	1683. Sept. 27	*cr.* Lord Guilford	
36	1685. Jan. 12	—	John Churchill

COURT OF KING'S BENCH.

A R.	A.D.	CHIEF JUSTICES.	JUDGES OF THE KING'S BENCH.		
12	1660. May 31		Thomas Malet	Thos. Twisden	
	Oct. 1	Robert Foster	—	—	
	Nov. 22	—	—	—	Wadham Wyndham
15	1663. June 18	—	John Kelyng	—	—
	Oct. 19	Robert Hyde	—	—	—
17	1665. Nov. 21	John Kelyng	made Ch. K. B.	—	—
	23	—	William Morton	—	—
21	1669. Feb. 6	—	—	—	Richard Rainsford
23	1671. May 18	Matthew Hale	—	—	—
24	1673. Jan. 21	—	William Wilde	—	—
28	1676. April 12	Richard Rainsford	—	—	made Ch. K. B.
	13	—	—	—	Thomas Jones
30	1678. May 31	William Scroggs	—	—	—
	Oct. 23	—	—	William Dolben	—
31	1679. May 1	—	Francis Pemberton	—	—
32	1680. April 29	—	Thomas Raymond	—	—
33	1681. April 11	Francis Pemberton	—	—	—
34	1683. Jan. 23	Edmund Saunders	—	—	—
35	April 25	—	—	Francis Wythens	—
	June 19	died	—	—	—
	Sept. 25		Richard Holloway	—	—
	28	George Jeffreys	—	—	made Ch. C. P.
	Oct. 22	—	—	—	Thomas Walcot

Court of Common Pleas.

A.R.	A.D.	Chief Justices.	Judges of the Common Pleas.		
12	1660. May 31		Robert Foster	Robert Hyde	
	July 27		—	—	Thomas Tyrrell
	Oct. 22	Orlando Bridgeman	made Ch. K. B.	—	—
	Nov. 3	—	Samuel Browne	—	—
15	1663. Nov. 4	—	—	John Archer	—
20	1668. April 16	—	William Wilde	—	—
	May 23	John Vaughan	—	—	—
24	1672. April 15	—	—	—	Robert Atkyns
	Dec. 18	—	—	William Ellis	—
	1673. Jan. 22	—	Hugh Wyndham	—	—
26	1675. Jan. 23	Francis North	—	—	—
28	1676. Oct. 23	—	—	William Scroggs	—
30	1678. June 15.	—	—	Vere Bertie	—
31	1679. May 1	—	—	William Ellis	—
32	1680. Feb. 7.	—	—	—	Thomas Raymond
	April 26.	—	—	—	Job Charlton
33	1681. Feb. 12	—	—	Creswell Levinz	—
34	1683. Jan. 22	Francis Pemberton	—	—	—
35	Sept. 29	Thomas Jones.	—	—	—
36	1684. Oct. 29.	—	Thomas Stree	—	—

Court of Exchequer.

A.R.	A.D.	Chief Barons.	Barons of the Exchequer.		
12	1660. June 1	Orlando Bridgeman			
	23	—	Edward Atkyns		
	July 7	—	—	Christoph. Turnor	
	Nov. 7	Matthew Hale	—	—	
15	1663. Nov. 16	—	—	—	Richard Rainsford
22	1670. Feb. 1	—	Timothy Lyttelton	—	—
	June 20	—	—	—	Hugh Wyndham
23	1671. May 23	Edward Turnour	—	—	—
24	1673. Jan. 24	—	—	—	Edward Thurland
27	1675. June 4	—	—	Vere Bertie	—
28	1676. April 12	William Montagu	—	—	—
30	1678. June 17	—	—	Francis Bramston	—
31	1679. May 1	—	—	William Gregory	—
	8	—	William Leeke	—	Thomas Raymond
	June 22	—	Edw. Atkyns, jun.	—	—
32	1680. Feb. 7	—	—	—	Richard Weston
33	1681. April 23	—	—	—	Thomas Street
36	1684. Oct. 30.	—	—	—	Robert Wright

Cursitor Barons.—1660, Thomas Leeke.
1663, March 9, Clement Spelman.—1679, May 8, Francis Crawley.—1683, March 17, Richard May.

Whatever changes were introduced in the costume of the judges during the Interregnum, of which we have no particular account, it is certain that at the Restoration the customary robes in which they had been habited since the reign of Edward I. were adopted. The only peculiarity which is noticeable is that, by various entries in the crown office minute books, it appears that on the swearing in of the chiefs of either of the courts their robes were put on by the other judges.

But though the robes were unchanged and unchangeable, the minor habiliments of the person followed the fashion of the period. Thus we find that from the reign of Elizabeth to that of Charles I. the ruff, greater or smaller according to the fancy of the wearer or the cut of the time, ornamented the throats of the judges as well as of the male and female gentry. But towards the end of the reign of Charles I. these gave way to the falling collar, more or less ornamented with lace or embroidery. This became in more recent times the band, worn both by legal and clerical men, as a necessary part of their costume; and though it only arose from the prevalence of fashion at the time it was introduced, there has gradually grown such an absurd forgetfulness of its origin, that I have seen on the bench, at the bar, and in the pulpit, the modern stand-up collars with stiff "dog's ears" shading the chin, mounted over the professional band of ancient cut.

The forensic head-dress of lawyers which had hitherto prevailed underwent a great change in this reign. The portraits of the judges that have come down to us of previous reigns, and through the greater part of this, exhibit the judicial head covered either with a coif, a velvet cap, or a cornered hat; and the upper lip ornamented with a moustache, and sometimes the chin graced with a beard. The latter superfluity had been long discarded; the moustache now gradually dis-

appeared, and instead of the coif or cap, the periwig, now introduced from France into this country, began to be adopted by the bench, with the pretence of a coif attached to the back of it. The wig, however, was not universally worn; for though the portrait of Sir Creswell Levinz, who was superseded in 1686, displays this appendage full bottomed, that of Sir Thomas Street, who continued to sit on the bench during the whole reign of James II. is depicted with his own hair and coif cap. The wigs in this reign were innocent of powder, as far as can be judged by the shadings of the pictures, and had not certainly attained to the formal cut of the present day.

The collar of SS. was also resumed by the two chief justices and the chief baron, of whom, to the exclusion of the rest of the judges, it had been for more than a century the distinguishing ornament. The reason of its having been limited to the chiefs of the courts has not been precisely ascertained, and the history of its original adoption is involved in some obscurity.[1]

It seems, however, to be satisfactorily established that badges or liveries were first introduced into this kingdom in the reign of Richard II., and that John of Gaunt, Duke of Lancaster, that king's uncle, first used this collar. Antiquaries have differed as to whether the form is the representation of a letter or something else, and as to its signification if a letter. By some it has been thought to be merely a chain, the links being formed in the shape of the letter; while others consider it the "ensign of the equestrian order, from the S-shaped lever upon the bit of the bridle of the warsteed." But both these suppositions are inconsistent, not only with the form of the oldest examples, which invariably

[1] The history of this collar is discussed and illustrated in a paper supplied by me to the Archæologia Cantiana, vol. i. pp. 73–93. The following pages contain a summary of the argument.

represent the letters placed separate and apart from each other, but also with the name by which the collar is commonly distinguished, and which is confirmed by an inventory of the earliest time, in which the "letter S" is distinctly stated to be of the Duke of Lancaster's livery.[1]

Then, admitting that the figure is intended for the letter S, its signification has been variously interpreted, and even now is not positively settled. One calls it the initial of St. Simplicius, a martyred Roman senator; a second connects the device with the Order of the Garter, as the initial of the Countess of Salisbury; a third says it means "Soissons," and was given by Henry V. in honour of St. Crespin and St. Crespinian, the martyrs of that place, on whose anniversary the battle of Agincourt was fought. But the first is without adequate authority and beyond all likelihood; and the second event occurred some years before, and the third some years after, the use of the collar was introduced. "Signum," simply, and "Sanctus, Sanctus, Sanctus," of the Salisbury Liturgy and Ritual, have found advocates; but the first is too unmeaning; and the second must be rejected, as we have no other instance of livery collars in England partaking of religious allusion. Mr. Willement suggests "Soverayne," the motto of Henry IV.; and Mr. J. G. Nichols thinks the letter means "Seneschallus" or steward, an office which John of Gaunt inherited in right of his wife, the daughter of Henry of Lancaster. But the fact, recorded in the Rolls of Parliament (iii. 313), that King Richard II. wore it on some occasions out of love to his uncle, sufficiently refutes either of these interpretations; for, had the letter borne the former signification, the king could not possibly have recognised such an assumption of royalty; and had it borne the latter, it does not seem likely that the king would have worn it, as it would have been not so much the badge of a kinsman, as of an

[1] Kalendars and Inventories of the Exchequer, iii. 321–2.

officer of his own household. In addition to this objection, no other example of a collar bearing the mere initial of the name of an office can, it is believed, be produced.

Looking at the practice of the time, the emblems generally adopted were expressive of some sentiment, or connected with some armorial bearing of the individual. Thus we find the broom-cod (*cosses de geneste*) on the collar of the King of France; branches of rosemary on that of Anne, Richard's first queen; links or fetter-locks, and falcons on the livery of the Duke of York; and the word "plesance" embroidered on other collars.[1] The conjecture, therefore, of Mr. Beltz that the letter S means "Souvenez," as part of the motto, "Souvenez-vous de moi," seems to me to be nearer the mark; and I am inclined to believe him to be right with respect to the *word* intended to be signified, whether he be correct or not in considering it the abbreviation of the motto. The simple word is sufficiently expressive, and one very likely, in those days of romance and sentiment, to be adopted as a motto by itself. That it was so, is proved by an entry on the Issue Roll of 8 Henry IV., which records that a goldsmith was paid the large sum of 385*l.* 6*s.* 8*d.* "for a collar of gold, worked with this motto, 'Soveignez,' and the letter S, garnished with a great variety of valuable jewels."[2]

The question, what persons were privileged to wear the collar, has been frequently the subject of inquiry; and several writers of eminence have supported the hypothesis that it belonged to the dignity and degree of knight. But this is contradicted by two facts; the first of which is, that of the numerous brasses which remain of those who held that degree, the great majority are undistinguished by the collar; and the second is that in the 'Acte for Reformacyon of Excesse in Apparayle,' 24 Henry VIII. c. 13, it is enacted,

[1] Kal. and Inventories of Exchequer, iii. 347, 353, 357.
[2] Devon's Issues of Exchequer, 305.

"That no man, oneless he be a knight . . . . weare any color of Gold, named a color of S." From this, though it may indicate that knights wore the collar at that time, it may be clearly inferred that it had been previously assumed by other persons; and it leaves us entirely uninstructed as to those who were privileged to wear it during the century and a half that had elapsed since the introduction of its use.

From one of the charges against the Archbishop of York and others in 1387[1], it appears that Richard II. was the first of our kings who gave badges to those who were connected with them. They thus became a party symbol; and the violent accession of the Lancastrian family to the throne, would naturally lead to the assumption of this livery by all those who were, or wished to be reputed, friends to the cause. That these formed so numerous a class as to become a nuisance, is evident from an ordinance in Parliament, made so early as the second year of the reign of Henry IV., altogether abolishing all liveries and signs, except that peers and bannerets were allowed to use the livery of the king, "de la colcr," at all times; while all other *knights and esquires* where prohibited from doing so, except in the king's presence[2]: thus showing that the use of the collar was not at the earliest period confined to knights; but, besides peers, their use by esquires was also recognised. And it is fairly to be presumed that the persons who were thus allowed to wear the king's livery, were only those, whatever their rank, who were of the retinue or household of the king. As evidence of this it may be noted that in the few monumental effigies that remain of this period, which are distinguished by this ornament, there are scarcely any in which the connection of the wearer with the family or court of the house of Lancaster cannot be traced.

[1] State Trials, i. 106.

[2] Rot. Parl. iii. 477.

On the accession of Edward IV. the Yorkist collar of Roses and Suns was of course adopted; but the Lancastrian collar of SS was revived by Henry VII. The frequent insurrections in his reign would have the natural effect of inducing his partisans to distinguish themselves by this emblem. The consequence was that by degrees it was assumed by unprivileged persons; so that when the two houses ceased to be antagonists, or rather, when no claimants remained in the York interest, it was found expedient to subject the wearers to some regulation; and, consequently, the statute of Henry VIII. limiting its use was enacted. The portrait of Sir Thomas More, painted by Holbein shortly before the passing of that statute, represents him with the collar of SS. It is the only known instance of a lord chancellor being distinguished by that ornament. Whatever, therefore, may have been the previous practice, of which we have no knowledge, either from monumental brass or picture or description, it may be presumed that from that time the very limitation in the Statute would prevent persons holding so high a dignity from adopting a collar which even knights were permitted to wear. The practice, even with knights, soon went out of fashion, till at last the use of the collar became gradually to be confined to certain persons in official positions, who alone were privileged to wear it, either in gold or silver, according to their grade in the royal household. The serjeant-trumpeter, and all the officers of the Heralds' College, except the pursuivants, are now the only persons who enjoy this privilege besides the chiefs of the three courts; unless the lord mayor of London is to be included, whose collar is somewhat similar, and is composed of twenty-eight SS, fourteen roses, thirteen knots, and measures sixty-four inches. The ends of the chain are joined by the portcullis, from the points of which, suspended by a ring of diamonds, hangs the jewel

containing the city arms, and encircled by a border of SS in gold, and rosettes of diamonds set in silver.

The privilege did not extend to the puisne judges, in none of whose monuments or portraits is the collar introduced; except in the effigy of Richard Harper, a judge of the Common Pleas in the reign of Elizabeth, in Swarkestone church in Derbyshire [1];—an exception which, without further explanation, must be attributed to the fancy of the sculptor or the mistake of the family.

With the exception of an uninscribed monument in Yatton church, Somersetshire, representing a figure with a collar of SS over the judicial dress, which has been conjecturally assigned to Sir Richard Newton, Chief Justice under Henry VI., who died about 1449, no trace of this collar has been found on the monument of any chief justice till the reign of Edward VI., a century afterwards. The monument of chief justice Sir Richard Lyster, in St. Michael's church, Southampton, who died in 1554, exhibits this ornament; and, though several other monuments of chief justices in this and the following reign do not appear to be adorned with it, there can be little doubt that the practice was then adopted; for, from the commencement of the reign of Elizabeth, in which we have the first pictorial representations of the judges, that emblem invariably ornaments the bodies of the chiefs. In "Popham's Reports," p. 43, he records, that on the call of serjeants in Easter, 36 Eliz. 1594, "the chief justices and chief baron met in Middle Temple Hall in &c., and with their collars of SS"—seemingly a recent introduction, as it had never been mentioned before on a similar occasion.

The form and appendages of the collar underwent many changes. It was, at first, a small collar, fitting closely to the neck, with the letter S placed at equal distances on a

[1] Fairholt's Costumes of England, 278.

stiff band of a dark colour, the ends of which bent outwardly, and were united by a chain. Pendent jewelled rings were then added, and afterwards, Henry the Seventh's Beaufort badge of the portcullis with the rose; and the form and material were at length increased in size and value, by the introduction of a garter-knot between the letters, till the collar became the gorgeous ornament which now decorates the chiefs. It consists of twenty-eight of the letters, and twenty-seven of the knots, besides the two portcullises and the rose, the diameter of the latter being about an inch and three quarters, and the rest of the chain in proportion. The weight of the whole is about four pounds of gold.

None of the present collars can boast any antiquity, except that of the chief justice of the Common Pleas, which is said to be the one worn by Sir Edward Coke. Chamberlain, it is true, in a letter to Sir Dudley Carleton, dated November 23, 1616, about a week after Coke's discharge, relates that on the new chief justice sending to him, to buy his collar of SS, Sir Edward answered, that "he would not part with it, but leave it unto his posterity, that they might one day know that they had a chief justice for their ancestor."[1] But, as no such collar is among the treasures at Holkham, it may be presumed either that the *on-dit* related by the entertaining letter-writer was unfounded, or, that if the chief justice, in his anger at his dismissal, actually made this speech, he, on reflection, altered his mind, and consented to part with the collar. For the first hundred years afterwards, however, there is no other evidence than tradition; the earliest date that can be positively traced is 1714, when Lord Trevor received it from his predecessor. From that time to the present, there is clear proof of the succession. On chief justice Tindal's

[1] Johnson's Life of Coke, i. 341.

death in 1846, his representatives transferred it to his successor, Sir Thomas Wilde (Lord Truro), without requiring any money payment, on the understanding that it should remain for ever as an office loom, for the future chief justices of the Common Pleas.

The collars of the other chiefs are both modern. That of the King's Bench, worn by Lord Ellenborough, could be traced back through his predecessors to Sir Matthew Hale, chief justice in 1671, and had been transmitted to each of them on a customary payment of 100*l*. Lord Ellenborough, on his retirement in 1818, chose to retain it; and the new one provided by Sir Charles Abbot (Lord Tenterden) descended to Lord Denman on the usual payment. As, on that nobleman's resignation in 1850, his successor did not take it, his lordship transferred it to the corporation of Derby, whose mayors will thus in future be decorated with the livery collar of the earl who took his title from that town and who, as Henry the Fourth, first attached it as a mark of honour to the members of the royal household. The collar then provided by Lord Campbell graced no shoulders but his own. Retaining the badge on his elevation to the chancellorship in 1859, his successor, Sir Alexander Cockburn, had again to supply a new one, being the third in forty-one years.

The descent of the old Exchequer collar could be traced for about a century and a half, before Sir Richard Richards became chief baron in 1817; but on his death his widow retained it. The new collar substituted for it by chief baron Alexander in 1824, was in its turn retained by the son of chief baron Lord Abinger, on whose death, in 1844, his successor, Sir Frederick Pollock, the present chief baron, was obliged to purchase a new one. This was also the third change in little more than forty years: so that the accustomed succession to this ancient symbol of office in

these two courts, may be considered as altogether discontinued.

During the Commonwealth, the royal collar was, of course, set aside; but Cromwell's chief justice, John Glynne, is represented with a collar of a similar description, formed of letters S, alternated with roses (a sort of bastard mixture of the liveries of York and Lancaster), with a large jewel pendent.

Gloves were presented to the judges on some occasions; viz. when a man, convicted of murder or manslaughter, came and pleaded the king's pardon; and, till the Act of 4 & 5 Will. and Mary, c. 18, which rendered personal appearance unnecessary, an outlawry could not be reversed, unless the defendant came into court, and with a present of gloves to the judges implored their favour to reverse it. The custom of giving the judge a pair of white gloves upon a maiden assize has continued till the present time.[1]

The procession of the judges to Westminster to open the Term, was still made on horseback after the Restoration; for which we have the evidence of Pepys (i. 116), who was an eye-witness in Michaelmas Term, 1660. Aubrey (ii. 386) tells us that it was discontinued on the death of Sir Robert Hyde in 1665. His successors resorted to the more convenient conveyance by coaches, till Hilary Term, 1673, when Roger North (Examen, 56), in his relation of the accident that happened to Judge Twisden, by falling from his horse (see his life), speaks of it as occasioned by Lord Chancellor Shaftesbury's "freak to make this procession on horseback, as in old time the way was, when coaches were not so rife." The same authority states that "the very next Term after they fell to their coaches as before."

During the plague in 1665, Michaelmas Term was ad-

[1] Kelyng, 25; T. Jones, 56; Notes and Queries, 1st s. i. 29, iii. 424.

journed till the Octave of St. Martin, and was then held in the schools at Oxford. The following Hilary Term was adjourned for the like reason, the two last returns being held at Windsor Castle. In Easter Term, 1668, Siderfin says (i. 365), that there was very little business, by reason of the Parliament and their privileges, and the poverty of the country.

The same reporter also records (i. 217) a refusal of the judges to alter a record, lest they should incur the "danger of erecting a clock-house," referring to the tradition of the infliction of this penalty on Ralph de Hengham, in the reign of Edward the First.

Various instances are recorded by Narcissus Luttrell, of the judges attending the king previous to the circuits, to receive his directions how they should behave themselves in their progress; a practice so liable to be misused, or at all events to be misconstrued, that we cannot but be grateful for its discontinuance.

Large extra duties were imposed on the judges by the terrible fire which destroyed the most part of London in 1666. By an Act of Parliament passed immediately after, enlarged by another passed in 1670, regulations were made for the rebuilding; and the judges and barons were empowered to hear and determine, without the formalities or ordinary course of proceedings used in their courts, any controversy between parties claiming estates or interests in the grounds taken by the corporation for the improvement of the City, and for settling all differences arising in respect to the terms of rebuilding, on the sites of the premises burned. The judges sat for this purpose in the Hall of Clifford's Inn, and to Sir Matthew Hale is attributed the arrangement of the rules adopted for their governance, and the most prominent part in effecting the complete restoration. They performed this difficult and important business so much to

the satisfaction of the corporation, that their portraits were ordered to be painted and hung up in the Guildhall, where they remained till a very recent period.

Walpole, in his anecdotes of painting, records that Sir Peter Lely was to have painted them, but refusing to attend the judges at their chambers, Wright, a Scotchman, got the business, and received from the City sixty guineas a piece.

Dr. Williams, in his Life of Hale (p. 112), says that the corporation presented that judge, in addition, with a handsome silver watch, still in possession of his descendant.

Dugdale (Orig. 37), records that the marble chair, whereon the chancellor anciently sat, "remaineth to this day (1666), being fixed in the wall there, over against the middle of the marble table," in Westminster Hall; but that the marble table was then covered with the courts there erected.

Westminster Hall, as Pepys in his entertaining diary relates, besides being the resort of persons seeking the news of the day, as well as of lawyers attending the courts, was furnished with shops of booksellers, sempstresses, and others. The dramatists and various writers of the day also often allude to this disfigurement of the Hall. The places under its roof, called "Heaven" or "Paradyce," "Hell," and "Purgatory," to which allusion has been made in the previous volumes, whatever was their original application, were now, and for some time after, turned to the profit of the grantees, by being converted into places of refreshment, commonly frequented by lawyers and their clients. In the interior of the Hall banners taken in battle were triumphantly hung, and on the exterior were to be seen, too frequently, the heads of executed traitors.

In January, 1684, the frost was so hard, that coaches traversed the Thames between the Temple and Westminster. Many hundred booths were erected, bull-baiting, and other

diversions were provided, and a whole ox was roasted on the ice against Whitehall.[1]

ATTORNEY-GENERALS.

I.	1649.	Sir Edward Herbert held the nominal title of attorney-general during the early part of the king's exile, till, in 1653, he was made lord keeper.
		There was no other attorney-general till the Restoration, when the following was the succession :—
XII.	1660. May 31.	Sir Geoffrey Palmer, died 1670.
XXII.	1670. May 10.	Sir Heneage Finch, made lord keeper.
XXV.	1673. Nov. 12.	Sir Francis North, became Ch. C. P.
XXVI.	1675. Jan 25.	Sir William Jones, resigned.
XXXI.	1679. Oct. 27.	Sir Creswell Levinz, made Just. C. P.
XXXIII.	1681. Feb. 24.	Sir Robert Sawyer.

SOLICITOR-GENERALS.

XII.	1660. June 6.	Sir Heneage Finch, made attorney-general.
XXII.	1670. May 11.	Sir Edward Turnour, appointed Ch. B. E.
XXIII.	1671. May 20.	Sir Francis North, made attorney-general.
XXV.	1673. Nov. 11.	Sir William Jones, made attorney-general.
XXVI.	1674. Dec.	Sir Francis Winnington, removed.
XXX.	1679. Jan 13.	The Hon. Heneage Finch.

Roger North (Life, p. 96) says that the attorney's place, including his private practice, was worth, to his brother, Sir Francis, 7,000*l.* a year.

SERJEANTS-AT-LAW.

The initials appended to the names mark the Inns of Court to which they belonged; and those which are distinguished by a * afterwards became judges.

XII. 1660. *Orlando Bridgeman (I.)

The following fifteen old serjeants were re-created by new writs, returnable on June 22, the first day of Trinity Term, their former writs being declared illegal.

[1] Gent. Mag., April 1852, p. 373.

Thomas Widdrington (G.) *Hugh Wyndham (L.)
Thomas Bedingfield (G.) John Fountaine (L.)
*Samuel Browne (L.) *John Archer (G.)
John Glynne (L.) *John Maynard (M.)
Erasmus Erle (L.) *Thomas Twisden (I.)
Robert Bernard. Evan Seys.
Richard Newdigate (G.) Thomas Waller.
*Matthew Hale (L.)
*Christopher Turnor (M.) *Thomas Tyrrell (I.)

In Michaelmas Term fourteen new ones were called.

George Beere (M.) *John Kelyng (I.)
John Parker (G.) Charles Holloway (I.)
Frederick Hyde (M.) *Richard Rainsford (L.)
John Merrifield (I.) *Wadham Wyndham (L.)
*William Morton (I.) *Job Charleton (L.)
*William Wilde (I.) Charles Dalison (G.)
Edward Hoskins (I.) Thomas Brome (G.)[1]

Motto, "aDest CaroLUs MagnUs;" the capitals forming the date of the year 1660.

XX. 1668. *John Vaughan (I.)

Motto, "Deest Lex, si desit Rex."

XXI. 1669. Timothy Turner (G.)
*William Ellis (G.) John Howell (L.)
Thomas Hardres (G.) *Francis Bramston (M.)
Nicholas Willimot (G.) Henry Peckham (M.)
Gibbon Goddard (L.) Christopher Goodfellow (I.)
Richard Hopkins (I.) Samuel Baldwin (I.)
Thomas Flint (G.) Thomas Powys (L)
John Turner (M.) *William Jones (L.)
John Barton (M.) *William Scroggs (G.)

Motto, "Rex Legis Tutamen," according to Keble (ii. 552), and to T. Raymond (187); but in "Westminster Hall (iii. 174) it is stated to have been "A Deo Rex, a Rege Lex."

XXII. 1670. *Timothy Lyttelton.
XXIII. 1671. *Edward Turner (M.)
XXIV. 1672. *Robert Atkyns (L.) *Edward Thurland (I.)
XXVI. 1674. *Francis North (M.)
XXVII. 1675. Tristram Conyers (M.) Le Strange Calthorpe (M.)
Edward Peck (I.) Robert Shaftoe (G.)
Richard Crooke (I.) *Francis Pemberton (I.)

[1] This gentleman was mayor of Dover, and received King Charles II. on his landing there.

Nicholas Pedley (L.) Richard Stote (L.)
George Strode (L.) Robert Stevens (M.)
Thomas Skipwith (G.) Francis Barwell (M.)
Edward Rigby (G.) *Vere Bertie (M.)

XXVIII. 1676. *William Montagu (M.)

XXIX. 1677. *William Dolben (I.) Thomas Strode (L.)
*Richard Holloway (I.) *Thomas Stringer (G.)
John Simpson (I.) *Thomas Street (I.)
*Richard Weston (G.) Thomas Holt (G.)
*Robert Baldock (G.) John Shaw (L.)
*William Gregory (G.) Thomas Rawlings (M.)
Francis Wingfield *Thomas Raymond (G.)
George Johnson.

Motto, "Gratia Regis, non operibus Legis."

XXXI. 1679. *Edward Atkyns (L.) *Thomas Walcot (M.)
*William Lecke (G.) Edward Bigland (I.)
*George Jeffreys (G.) *Robert Wright (M.)
John Kelyng (G.) William Bucleby (G.)
John Boynton. Robert Hampson (G.)
Francis Manley (G.) William Richardson (L.)
Edmond West (G.)

XXXIII. 1681. *Creswell Levinz (G.)

Motto "Regi servire, Jura servare."

XXXIV. 1682. *Edmund Saunders (M.)

Motto, "Principi sic placuit."

XXXV. 1683. *Francis Wythens.

Motto, "Sic placuit Regi."

*Thomas Jenner (I.) John Jefferson.
John Wyndham. *Edward Lutwyche (G.)
Edwin Wyatt. *Richard Heath (I.)
Edward Burch. Henry Selby.
*Henry Bedingfield (L.) John Millington.
*Edward Nevil (G) *Thomas Powell (G.)
Paul Barrett. Owen Wynne.
Anthony Farrington. George Pudsey.

Motto, "A Deo Rex, a Rege Lex."

Besides the above noticed mottoes, two others, apparently of this century, are engraved on serjeants' rings, exhibited lately to the Archæological Institute, which have not yet been appropriated: viz. "Ex æquo et bono:" and "Imperio regit unus æquo," from Horace, lib. iii. od. 4.

KING'S SERJEANTS.

XII.	1660.	John Glanville (L.)	John Glynne (L.)
		*John Maynard (M.)	
XIII.	1661.	*John Kelyng (I.)	*William Wilde (I.)
XV.	1663.	*William Morton (I.)	
XX.	1668.	*Job Charleton (L.)	
XXI.	1669.	*William Scroggs (G.)	
XXII.	1670.	Timothy Turner (M.)	
XXIII.	1671.	*William Ellis (G.)	*Thomas Jones (L.)
XXIV.	1672.	Samuel Baldwin (I.)	
XXVII.	1675.	Edward Peck (I.)	Le Strange Calthorpe (M.)
		*Francis Pemberton (I.)	
XXVIII.	1676.	Thomas Hardres (G.)	Richard Stote (L.)
		George Strode (L.)	
XXIX.	1677.	*William Dolben (I.)	John Simpson (I.)
XXX.	1678.	*Thomas Street (I.)	*Richard Weston (G.)
XXXI.	1679.	*Thomas Stringer (G.)	
XXXII.	1680.	*George Jeffreys (G.)	John Kelyng (G.)
		Robert Wright (M.)	
XXXV.	1683.	*Thomas Jenner (I.)	*Richard Holloway (I.)
XXXVI.	1684.	*Henry Bedingfield (L.)	*Edward Lutwyche (G.)

The inauguration of serjeants was still celebrated by feasts, though not apparently of the same expensive character as formerly. On the first call of the *new* serjeants in Michaelmas Term, 1660 (the call in the preceding term being only a confirmation of the serjeants of the Interregnum in their degree) it was in Middle Temple Hall, at which were present the lord chancellor and the lords of the council, with other noblemen, all the judges and old serjeants in scarlet, and the mayor and aldermen of London. At the next general call in 1669, there was, according to Siderfin, no grand feast, but the seventeen serjeants then made spent their money more rationally, by each contributing 100*l.* towards restoring the hall and other buildings in Serjeants' Inn, Fleet Street, which had been destroyed by the calamitous fire in 1666. Dugdale (p. 326) qualifies this by stating that about 400*l.* was deducted out of the contribution, for

defraying the charge of their feast, and some other general expenses. The next feast that is recorded, is that of Sir Francis North in 1674, on his being called serjeant previous to his appointment as chief justice of the Common Pleas: which was held at Serjeants' Inn Hall, Chancery Lane. We are not told whether a feast was given at the general calls in the same year, or in 1677; but in those of 1679 and 1683, there were splendid feasts in the new hall of Serjeants' Inn, Fleet Street; and on the elevation to the bench of Sir Creswell Levinz in 1681, and Sir Edmund Saunders in 1682, they respectively held feasts, the former in Serjeants' Inn, Chancery Lane, and the latter in Serjeants' Inn, Fleet Street.[1]

Siderfin describes the procession of the serjeants in Michaelmas 1660, from the Inner Temple Hall, where they *counted*, to the Court of Common Pleas at Westminster, where they were received by the lord chancellor and all the judges and barons sitting there. They were accompanied by the members of the several Inns of Court and Chancery, preceded by about 200 servants in party-coloured liveries, and all the officers of the court and butlers of the societies in party-coloured gowns. Immediately before the new serjeants were three knights in party-coloured gowns, viz. Sir . . . Carew, marshal of their feast, Sir Francis Clarke, steward, and Sir John Maynard, controller. The only covering to the head of the new serjeants was a white coif. This coif, Dugdale (p. 136) tells us, was of white silk or linen, or, as he afterwards says, of lawn. Their robes were somewhat similar to those worn by the judges, and were of three distinct colours, murrey; black furred with white; and scarlet: but the robe worn on their creation only was of two colours, murrey and mousecolour; whereunto they have a hood suitable. Dug-

[1] Siderfin, i. 4, 435; Luttrell's Diary, i. 44, 297; T. Jones, 44, 231.

dale states that in this reign the serjeants still kept up the memory of the old custom of going after their feast to St. Paul's Church in their habits, and there choosing their pillar whereat to hear their client's cause, if any come: and that they took notes of the cases at Guildhall on their knees, as used to be formerly practised at St. Paul's.

The order of creation is described by the same contemporary authority. The serjeants-designate send to one of the Serjeants' Inns, and also to their respective Inns of Court, wine and cakes for the delectation of the judges, serjeants, and barristers of those houses. This repast ended, the barristers, preceded by the warden of the Fleet and his tipstaves, with the marshal of the Common Pleas, all bareheaded, then march two and two together to Serjeants' Inn, and thence "in like sort" to Westminster Hall. Arriving there about nine o'clock, the intended serjeants "in some private place" put on their party-coloured robes, and with the same attendance place themselves directly opposite the Court of Common Pleas. Two of the old serjeants then "recede from the bar with a solemn congé," and when they are half way between the serjeants elect and the court, they turn their faces towards the court and "make a second congé;" making also a third congé when they arrive at the place where the expectant candidates stand. Then returning, with the new serjeants between them, "making their three congés," they advance to the bar; and each of the new serjeants, after a formal exhortation from the chief justice of the King's Bench, who is present on these occasions, declares in law French on an original writ, and is answered in due form by the two oldest serjeants. They then kneel down and take the oaths at the feet of the chief justice, who puts the lawn coif on their respective heads and the hood upon their shoulders.

The seventeen newly made serjeants in 1669 are charged

by Chief Justice Kelyng with presenting rings of diminished weight. Addressing Serjeant Powys, the junior of the batch, a day or two after their creation, he said "that he had something to say to him, viz. That the rings which he and the rest of the serjeants had given weighed but eighteen shillings a piece; whereas Fortescue, in his Book De Laudibus Legum Angliæ says, 'The rings given to the chief justice and to the chief baron ought to weigh twenty shillings a piece;' and that he spoke not this expecting a recompence, but that it might not be drawn into a precedent, and that the young gentlemen there might take notice of it."[1] His lordship's remonstrance, however, was scarcely deserved; and Serjeant Powys might have answered him by referring to the precedent of 1577, when rings of the smaller weight were presented to the chiefs by the serjeants then created[2]; and the probability is that the less expensive practice had prevailed for the subsequent ninety years.

But if chief justices could be too exacting, the serjeants themselvés were not innocent of the same frailty. It was a custom with the judges to allow motions of common form and practice to be made by attorneys at the side bar in Westminster Hall for the King's Bench, and in the Treasury Chamber for the Common Pleas: and at last even young barristers were heard. The serjeants, who had the monopoly of the bar in the Common Pleas, took umbrage at this innovation, and deemed it an encroachment on their privilege and a reduction of their profits. So, to show their resentment, they agreed for one day to make no motion at all; calculating that this course would compel an explanation, and would lead to a discontinuance of the grievance. Accordingly, on Chief Justice North calling upon the senior serjeant, he bowed as if he had nothing to move. So also did all the serjeants present. The court was about to rise, when an

[1] 1 Modern, 9.

[2] Dugdale's Origines, 125.

attorney stepped forward and said that he had given a serjeant his fee and instructions to move, and desired he might do it. But still there was profound silence. The chief justice looked about and asked, "What was the matter?" The attorney answered "that he feared the serjeants took it ill that motions were made in the treasury." Then the chief, scenting the matter, said, "Brothers, a very great affront is offered to us, which we ought for the dignity of the court to resent. But that we may do nothing suddenly, but take full consideration at full leisure and maturity, let us now rise and to morrow morning give order as becomes us. And do you, attorneys, come all here to morrow, and care shall be taken for your despatch; and rather than fail, we will hear you, or your clients, or the barristers-at-law, or any person that thinks fit to appear in business, that the law may have its course." The serjeants were thunderstruck, and went to the judges that afternoon with an abject apology. But the judges insisted that as the insult was public, the acknowledgment should be public: and, accordingly, the next morning they appeared in court and asked pardon, and, after receiving a formal chiding from each of the judges, they were allowed to move. This was called the Dumb-day.[1]

The judges and serjeants occupied the two inns in Fleet Street and Chancery Lane, some in one and some in the other; and the conferences of the judges and barons were principally held at the former, until the fire of London in 1666, when it was destroyed. Its residents then removed to Chancery Lane, but, on the rebuilding, they returned to their old habitation.

SERJEANTS' INN, FLEET STREET.—The term of forty years, granted by the lease of 1627, having nearly expired at the Restoration, another lease was granted by the Dean and Chapter of York in 1661 to Chief Justice Foster and

[1] Roger North's Life of his brother, 102.

other judges and serjeants, for forty years more at the old rent. But upon the destruction of the house by the Fire of London in 1666, there was evidently some dispute between the landlords and tenants as to the rebuilding. Although the twelve judges took upon them the settlement of all differences arising out of the general calamity, they were not considered competent, on account of their interest in the premises, to determine any dispute concerning that house. One of the Acts of Parliament, therefore, for rebuilding the city (22 Car. II. c. 11, s. 80), provides that all differences and demands touching that house and the rebuilding thereof, shall be decided by the king and his privy council; who were also empowered to award compensation to Robert Mellish, to whom an intervening lease had been granted, and to decree that a lease of the premises should be executed by the Dean and Chapter of York for sixty years, for the use of the society. Accordingly, in pursuance of an order in council, of June 29, 1670, concerning all matters in dispute, a lease for 60 years was granted, on September 30th following, to Chief Justice Kelyng and others, at an annual rent of *5l.*, the judges, &c. undertaking to rebuild. The expense of rebuilding, beyond the money contributed at the call of serjeants in 1669, was defrayed by five of the judges and ten of the serjeants, under an agreement that a certain portion should be deducted at the death of each for the time he should have enjoyed his lodging, his executors to receive the remainder from his next successor, and so on till the whole was reimbursed. The five judges were Kelyng, Twisden, Turner, Tyrrel, and Wilde: and the ten serjeants were Brome, Holloway, Ellis, Willimott, Goddard, J. Turner, Barton, Bramston, Goodfellow, and Powys; all of whom are duly honoured by Dugdale with the emblazonment of their arms.[1] The chapel was consecrated in 1676 by the Bishop of London;

[1] Dugdale's Origines, 326, 332.

and Chief Justice Saunders, we have seen, held his serjeants' feast in the new hall in 1681.

The increased number of barristers from the beginning of this reign was so great, that a mere catalogue of their names would be a useless incumbrance. As the law reporters, who were proportionally multiplied, notice the counsel who had the principal business in the courts, our future record will be confined to those leading men, who were either taken into the royal service, or were favoured with patents of precedence.

Mr. Serjeant Manning in his *Servicns ad legem* (209), expresses an opinion that Sir Francis North was the first barrister who was made king's counsel; and that his appointment was the first establishment of the order. But we have seen that Sir Francis Bacon, whatever doubt may exist of his holding the honour in the reign of Queen Elizabeth, clearly held it under James I. Sir Henry Montagu (afterwards chief justice) had a similar grant in that reign; and in the next no less than four persons are recorded in Rymer's Fœdera as having been appointed counsel to the king. One of these four—Sir John Finch—in a grant to him of precedency after the king's solicitor-general, is expressly called "king's counsel" (Cal. State Papers, 1628, p. 181).

There can be no doubt, therefore, that the degree was established, and had been conferred from the beginning of the century. Neither was Sir Francis North the first who was so designated in this reign; though, as might be the case, Roger North (Life, 37) says that the king had no counsel except serjeants at the time (1668) when his brother was appointed. There was at least one appointment before him. The benchers of the Middle Temple refused at first to call Sir Francis to their bench, because he was a young man preferred by favour; but upon receiving a reprimand from the judges, that one whom the king thought fit so to elevate was worthy of being admitted into their company, they

deemed it expedient to relent. After the Revolution, however, the king's counsel were frequently refused admission to the bench, and the benchers' privilege of choosing their own society, and of excluding a king's counsel, has been solemnly confirmed by a recent decision.

XII. 1660. Thomas Levingston (Cal. State Papers, 1660, p. 72).
XX. 1668. Francis North, . . . Miller } (Siderfin, i. 365).
XXII. 1670. William Jones (North, 52).
XXIII. 1671. Francis Goodricke (Admittance Bk. Linc. Inn).
XXIV. 1672. Francis Winnington (T. Jones, 43).
XXV. 1673. John Churchill (Pat. 25, Car. II. 2).
XXVI. 1674. John King (his Memoirs, 46).
XXX. 1678. George Jeffreys [sed qu?] (North, 209).
Creswell Levinz (State Trials, vii. 84).
John Kelyng, jun. (T. Raymond, 360).
XXXI. 1679. James Butler (State Trials, vii. 261).
XXXIII. 1681. William Scroggs, jun. (Crown Off. Min. Bk.)
XXXV. 1683. Thomas Jones (Luttrell, i. 247).
Roger North (North, 305).
Francis Wythens (T. Raymond, 496).
John Trevor (North, 218).

From the fee-book of Sir Francis Winnington, solicitor-general in 1675, now preserved in the library of Stanford Court, Worcestershire, we get an insight into the professional remuneration of this reign. It commences in 1671, in Easter Term of which year he received 459*l.*; in Trinity, 449*l.* 10*s.*: in Michaelmas, 521*l.*; and in Hilary 1672, 361*l.* 10*s.*; making together 1791*l.*, exclusive of his gains on the Oxford Circuit, and during vacations. He had a standing fee of 10*l.* annually from Prince Rupert, and a salary of 8*l.* from the City of London, annually, at Christmas; and was appointed solicitor-general to the Duke of York in 1672, at a salary of 160*l.* In 1675 his gains amounted to 3,371*l.*, in 1674 to 3,560*l.*, and in 1675, when solicitor-general to the king, including 429*l.* office fees, to 4,066*l.*[1] In the memoirs of Sir

[1] Notes and Queries, 2nd series, vii. 65

John King, an eminent chancery lawyer (vi. 11), we are told that in 1676 he made 4,700*l.*, and that he received 40*l.* and 50*l.* a day for each of the last four days he pleaded before his death in 1677.

The seven Speakers who presided over the House of Commons in this reign, were all lawyers except one, viz. Sir Edward Seymour. When elected to that honourable office they desisted from practising; and so jealous was the house of their privileges, that on Sir Edward Turnour asking their opinion, in 1668, whether, the adjournment being a long one, he ought to be attended by the mace and forbear to practise, it was declared that the practice must be the same as in shorter adjournments.[1]

Dugdale, who published his "Origines Juridiciales" in this reign, enumerates, besides the four Inns of Court, eight Inns of Chancery then existing, viz.: Furnival's Inn and Thavies Inn, as belonging to Lincoln's Inn; Clifford's Inn, Clement's Inn, and Lion's Inn, in connection with the Inner Temple; New Inn, attached to the Middle Temple; and Staple Inn and Barnard's Inn, under Gray's Inn.

At the restoration of the monarchy the exercises of the legal inns were renewed, readers were again regularly appointed, and many of the old customs which during the rebellion had fallen into disuse were revived. Among them, Pepys thus notices one under date February 28, 1664: "Walked to Paul's, and, by chance, it was an extraordinary day for the readers of the Inns of Court and all the students to come to church, it being an old ceremony not used these twenty-five years, upon the first Sunday in Lent." He states that there were abundance of students, and that one Hawkins, an Oxford man, preached a good sermon. This was the clergyman, who, five years afterwards, was tried at Aylesbury by Lord Chief Baron Hale, on a false charge of

[1] Parry's Parliaments and Councils.

felony, contrived for his destruction by an atrocious conspiracy, which was fully exposed by the judge, and the reverend gentleman honourably acquitted.[1]

Lord Campbell, in his life of Hale, has antedated the discontinuance of the practice of law students spending some time at an Inn of Chancery, before being admitted of an Inn of Court. In recording Hale's admission into Lincoln's Inn in 1629, he says, the above practice "seems now to have become obsolete;" when even among the judges there are four in that century who were, in the first instance, members of an Inn of Chancery, viz. Godbolt, Harvey, Reeve, and Warburton, the last of them so recently as 1618. The custom had not, however, for some time been so much attended to as formerly, as many students were at once admitted to an Inn of Court, all readers having a privilege of introducing one. The Commonwealth may more probably be fixed upon as the period of its total disappearance, although in this reign, by an order of the Lord Chancellor and all the judges, for the government of the Inns of Court and Chancery, dated June 18, 1664, keeping of exercises in the latter is still recognised, and the privilege that readers assumed of calling to the bar is taken away.

This order (Dugdale, 322) gives power to the benchers of the Inns of Court to make laws for governing those of Chancery; to cause periodical searches, so that "ill subjects and dangerous persons" may not be lodged and harboured; and to prevent attorneys and solicitors, who, as the order "says, are but immaterial persons of an inferior nature" to apprentices-at-law, from being admitted of an Inn of Court. It directs that all members of the several societies shall receive the Communion once a year; that no strangers, not members, shall lodge in any of the houses; that none shall be admitted to the bar, till they have kept exercises for

[1] Pepys' Diary, ii. 100; State Trials, vi. 921.

seven years; and when so called, shall not practise at any bar at Westminster for three years; and that all benchers, barristers, and students, shall attend the readings and other exercises, as hath been used by the ancient orders. It forbids the members to enter the several halls, churches, or chapels, with cloaks, swords, or daggers; and enjoins due respect and reverence to the readers, benchers, and ancients. In ordering the revival of the ancient readings, it limits the expense of them, which had become excessive, to 300*l.*, and forbids the reader to have more than twelve attendants in liveries. And in order to put a stop to the old excesses at Christmas time, it directs that no commons be kept in Christmas week, or in the week before or after.

King Charles seems to have enjoyed these holiday pastimes and other festivities of the lawyers, and, whether for policy or pleasure, was a more frequent visitor to the Inns of Court than any of his predecessors. He began early by attending the readers' feast at the Inner Temple in August, 1661, and the Christmassing in January, 1662, at Lincoln's Inn; and on several subsequent occasions his visits are recorded. He thus ingratiated himself with the lawyers, and was so great a favourite with them, that the Inns of Court were among the first who in 1682 presented addresses of fervent attachment to his Majesty and his royal prerogative, and abhorrence of the treasonable Association, the plan of which was alleged to have been found among the papers of the Earl of Shaftesbury.[1]

The readings at the different inns were sadly interrupted by the plague and the fire of London; so that there were none in autumn, 1665, the whole of 1666, nor in Lent, 1667. Lord Chancellor Hyde, in his speech to his cousin, on his being made chief justice of the King's Bench in October, 1663, notices that two of the Inns of Court

[1] Fox's James II., 97; Savile Corresp. 263.

had omitted reading during that vacation.[1] Towards the end of the reign, the readings were almost entirely discontinued.

LINCOLN'S INN.—Pepys, in his diary, Jan. 3, 1662, has this entry: "To Faithorne's, . . . and while I was there, comes by the king's life-guard, he being gone to Lincoln's Inn this afternoon to see the revells there; there being, according to an old custome, a prince and all his nobles, and other matters of sport and charge." Evelyn, for the same occasion, says, "I went to London, invited to the solemn foolerie of the Prince de la Grange at Lincoln's Inn, where came the king, duke, &c. It began with a grand masque, and a formal pleading before the mock princes, grandees, nobles, and knights of the sunn. He had his lord chancellor, chamberlain, treasurer, and other royall officers, gloriously clad, and attended. It ended in a magnificent banquet. One Mr. Lort was the young spark who maintained the pageantry."

The admittance book of the society contains an account of the king's presence at the readers' feast, in February 1671-2, similar to the visit he paid to the Inner Temple in 1661. Sir Francis Goodericke, attorney-general to the Duke of York, was the reader honoured, and his majesty was accompanied by the Dukes of York, Monmouth, and Richmond, Prince Rupert, and a host of nobles of all ranks. After dinner the king called for the book of admittances, and amidst the joyous acclamations of all, "entered his royal name therein," as a member of the society, an example followed by the other noble guests, who, borrowing gowns of the students, waited on his majesty in them, "with which," says the record, "his majesty was much delighted." The king acknowledged his satisfaction by knighting two of the benchers, and a barrister and student, "that soe each

[1] 1 Keble, 562.

degree and order of the society might have a signal testimony of his majesty's high favour."[1] One of the noble guests, Arthur, Earl of Anglesea, lord privy seal, three years after this feast presented a silver basin and ewer with his arms, and an inscription thereon; and Sir Richard Rainsford, chief justice of the King's Bench, gave a large silver cup as a "pignus amoris."

Archbishop Tillotson was elected preacher to the society in 1663; and the library was greatly enriched by the splendid bequest of Lord Chief Justice Hale's MSS.

INNER TEMPLE.—In 1662 the buildings of brick in Parson's Court, near the east end of the church, were erected; and in 1663, those called the Black Buildings, erected in 18 Eliz., near the Alienation Office, were pulled down for the enlargement of the walks. (Dugdale, 147.)

The terrible fire of London in September, 1666, did great havock to the inn, the flames stopping within a very few yards of the church. Lord Clarendon, in his account of it (Life, iii. 90, 100), states that it consumed all the new buildings next to Whitefriars, and the old buildings joining Ram Alley. It being the long vacation, scarcely a man to whom the chambers belonged was in town, so that the property consumed, including the title-deeds of many men's estates deposited in their hands, was of immense value. The noble author indignantly remarks, that the gentlemen of the Inner Temple made no effort to preserve the goods in the lodgings of the absent persons, nor suffered others to do it, "because," they said, "it is against the law to break into any man's chamber."

The Inner Temple suffered from another conflagration in January, 1678–9, which destroyed a part of the hall and old cloister walks. The former was rebuilt in 1680, and the site of the latter it was proposed to cover with chambers.

[1] Westminster Hall, iii. 96.

Roger North says that "Mr. Attorney Finch" vehemently resisted the suggestion, urging the benefit which the students derived from walking there, and putting cases among themselves, and that the difficulty was overcome by adopting Sir Christopher Wren's plan of erecting a stack of chambers, with the cloisters under them, in the form they now retain.[1] North is, however, mistaken in his memory, for the date is preserved on a tablet on the building, and Finch was then lord chancellor, and was created Earl of Nottingham in the year (1681) of its reconstruction.

Sir Heneage Finch's feast, when he was appointed reader in autumn, 1661, was of the most splendid description, continuing several days, on the last of which he had the special honour, never before inflicted on a reader, of entertaining the king himself and all his court. His majesty came by water, and was received at the Temple stairs by the reader and the lord chief justice of the Common Pleas (Sir Orlando Bridgeman, who had been a member of the inn) in his scarlet robe and collar of SS. "On each side, as his majesty passed, stood the reader's servants, in scarlet cloaks and white tabba doublets, there being a way made through the wall into the Temple Garden; and above them, on each side, the benchers, barristers, and other gentlemen of the society, all in their gowns and formalities, the loud musick playing from the time of his landing till he entered the hall, where he was received with xx violins, which continued as long as his majesty stayed. Dinner was brought up by fifty select gentlemen of the society in their gowns, who gave their attendance all dinner while, none other appearing in the hall but themselves; the king and Duke of York, sitting under a canopy of state at a table set at the upper end of the hall, advanced three steps above the rest. The lord chancellor, with the rest of the noblemen, sitting at a long

[1] Luttrell's Diary, i. 7; North's Life, 19.

table on the right side of the hall, and the reader, with those of the society, on the other side." In the following November the Duke of York and Prince Rupert honoured the society by becoming members, an example which was followed by many noblemen; and the duke was even called to the bar. (Dugdale, 157.)

The feast in March, 1669, was distinguished by a very different procedure. The Lent reader, Sir Christopher Goodfellow, having invited the lord mayor to it, that dignitary thought proper to assert his authority, by entering with his (the civic) sword up. The students, jealous of the rights of their precincts, pulled it down, and forced him to go and stay all the day in a private chamber, until the reader could get the young gentlemen to dinner, when his lordship retreated out of the Temple by stealth, "with his sword up." Pepys, who tells the story (iv. 113), says that this made great heat among the students, who resolved to try the charter of the City; a threat which was executed, not by the students, but the king, thirteen years after. Complaints being made to his majesty by the lord mayor, the case was heard before the council, and the ringleaders appearing and arguing the matter, the king, on consultation, thought fit to suspend the declaration of his pleasure thereon, till the right and privilege of bearing up the lord mayor's sword within the Temple should be determined by law.[1] But no settlement of the question is recorded. The only other reader's feast which is noted is that of Sir Francis Pemberton in 1674, who, Mr. Serjeant Chauncy says, kept a "noble table."[2]

There were three grand days of revelling, "Allhallown, Candlemass, and Ascension day, ... guided by a master of the revells in form following: First, the solemn revells (after dinner, and the play ended) are begun by the whole

[1] Pearce's Inns of Court, 236. [2] Chauncy's Herts, 417.

house, judges, serjeants-at-law, benchers, the upper and the inner barr, and they led by the master of the revells; and one of the gentlemen of the upper barr is chosen to sing a song to the judges, serjeants, or masters of the bench, which is usually performed; and in default thereof, there may be an amerciament. Then the judges and benchers take their places, and sit down at the upper end of the hall." A second solemn revel is then performed by the utter and inner barristers; and after that a third (called the Post revels) by the gentlemen of the inner bar, which it may be presumed was not quite so solemn.[1]

MIDDLE TEMPLE.—Dugdale gives a list of the various officers connected with the Middle Temple in his day (1666), and a detailed account of their respective duties. He describes their mode of admittance, the fees on which are lessened if the applicant has been in an Inn of Chancery; and notes that a bencher only has the privilege of a chamber to himself; all others going two to a chamber. There was no ceremony used at the calling to the bar, except the formal announcement, after seven or eight years' membership, by the benchers. The next steps taken by the barrister were, first, cupboardman, then bencher, and last reader. The ceremonies at the readers' feast are stated to be that the two readers are bound to meet the judges and serjeants invited, and to conduct them to the upper end of the hall; and one with a white staff, and the other with a white rod, in his hand to usher in the meat (which is brought in by the students), following next after the music, and to place it on the table. When dinner is over, and the hall is cleared, the senior reader "with his white staff advanceth forward and begins to lead the measures; followed first by the barristers, and then the gentlemen under the bar, all according to their several antiquities." When the first measure is ended, the

[1] Evelyn's Memoirs, iii. 363; Dugdale's Origines, 161.

junior reader begins another. Fines are imposed for neglect in attendance and for refusal to perform the services; one of which is to carry up wafers in a towel, and ipocras in a bowl to the judges in solemn procession, while they all in chorus sing a psalm, begun by a gentleman of the bar called on by the reader. It was the custom when any judges or serjeants were invited to their grand feasts for two ancient barristers to call on them four or five days before; and to wait on them when they are in the hall with basins and ewers of sweet water and towels for the washing and drying of their hands. The post-revels by the young gentlemen formerly practised, the author says, have been disused of late years in all the inns.

The readings lasted nearly a fortnight, and the expense was very great, some expending as much as 600*l.* besides certain allowances made by the society. Dugdale details the form then used on these occasions, and the cases put and argued by the company after dinner on each day; "which kind of exercise," he sagely says, "doth both whet their wits and strengthen their memory." The reader is heard in the courts at Westminster before others; and has the privilege of admitting any one to the society, but may not as of old call any to the bar.

The benchers have pre-audience before all other barristers in the Rolls' Court; and when a member of the house receives a serjeant's writ, he is immediately admitted to the bench table, and appointed the next reader, if a reading occur before the return of his writ. On the day of his investiture with the coif he is presented with a purse containing 10*l.*, contributed by the members at 3*s.* 4*d.* apiece. A recorder of London is always named as the next reader after his appointment. (Dugdale, 197-213.)

The revels were kept up as joyously and the reader's feast as expensively as ever. In reference to the first,

Evelyn (ii. 300, 303) notes that in January 1668 he "went to see the revells at the Inner Temple, which is an old riotous custom, and has relation neither to virtue nor policy." And in August of the same year he was present at the feast given by Francis Bramston, afterwards a baron of the Exchequer, on being appointed reader; which he says "was so very expensive and greate as the like had not been seene at any time."

In the middle of the seventeenth century a benevolent member of the society conveyed to the benchers in fee several houses in the city of London, to the intent that out of the rents they should pay a stated salary to each of two referees or free arbitrators, who were to meet on two days in each week of every term from two to five o'clock in the hall, or other convenient place, freely and without fee received on either side, to hear and do their best endeavours to determine all such controversies, differences, suits and demands as should be submitted to them, The referees have been duly nominated from that time to the present. But, owing probably to the appointment not being publicly known, the intentions of the donor have been wholly unproductive of the good effect he proposed. At least, no record is known to exist, during the two centuries that have since elapsed, of any parties having availed themselves of the assistance of the free arbitrators to settle their disputes.

For many years the two gentlemen who have held the appointment of referees, finding their office was a sinecure, have liberally devoted their salaries for the benefit of the library, to which they have periodically made valuable additions,—a practice which is continued to this day.

GRAY'S INN.—From a passage in Pepys' Diary (ii. 172) it appears that Gray's Inn Square was built by Lord Southampton about 1664: and in May 1667 (iii. 129) the same author records the visit of a Mr. Howe, who told him "how

the barristers and students of Gray's Inne rose in rebellion against the benchers the other day, who outlawed them, and a great deal of do; but now they are at peace again." He frequently mentions the Gray's Inn Walks, as the gardens were commonly called, which then and for some time after were the resort of the beaux and belles of fashionable and would be fashionable life. A riot took place in 1684 in consequence of the attempt to build on Red Lion Fields near these gardens, in which several gentlemen of the house were hurt on one side and several workmen on the other.

The members still kept up its reputation for its splendid entertainments; for Luttrell records (i. 236) that on November 4, 1682, the revels in this house began and were to continue every Saturday during that term and the next; and that on January 23, 1683 (i. 249), Sir Richard Gipps, the master of the revels, attended by his revellers and comptrollers, went to Whitehall in one of his majesty's coaches, to invite the king and queen, the duke and duchess, to a mask on Candlemas day; and that accordingly there was great preparation, diverse of the nobility and gentry in masks, who danced in the hall, and afterwards were entertained with a splendid banquet.

Cleveland the loyalist poet, and Butler the author of "Hudibras," had chambers in Gray's Inn, and formed a nightly club of wits of their own sentiments.

The sale of the Crown Rent of 6*l.* 13*s.* 4*d.* to the society in the time of the Commonwealth having been repudiated at the Restoration, the king sold it to Sir Philip Meadows, in whose representatives it remained till 1733, when the benchers bought it again for 180*l.*

New Inn.—In 1669 and 1670 the junior fellows of the society rebelled and violently entered the treasurer's chambers, forcibly taking away divers deeds, evidences, and writings which were never afterwards recovered.

BARNARD'S INN.—From the books of this society we learn that in the time of the plague the porter was allowed 4*s.* for coals to be burnt in the street, by order of the lord mayor: and an allowance of 3*s.* 4*d.* for candles was granted to him to spend in his lodge when the fire of London was raging.

During the commotions in the civil war many members having brought their wives and families to reside in the inn for safety, an order was issued at a pension in 1670 that they should no longer be permitted to do so. In 1679, having received an order from the House of Lords to supply a list of all the members of the society that were Irishmen or Papists, and to expel those who refused to go to church and receive the sacrament, and to take the oaths, &c., the principal of the house proudly certified that there were none.

Great respect was paid to the reader appointed by Gray's Inn. The principal, accompanied by the ancients and gentlemen in commons in their gowns, met him at the rails of the house on his coming, and conducted him into the hall; and the porter was fined 6*s.* 8*d.* in 1664 for not giving the principal notice of his arrival.

STAPLE INN.—The arms of this society were "vert, a woolpack, argent;" and the payment made for painting them on canvass in 1665 for the hall was 10*l.*

BIOGRAPHICAL NOTICES

OF

THE JUDGES UNDER THE REIGN OF CHARLES II.

ARCHER, JOHN.

Just. C. P. 1663.

See under the Interregnum.

Morant, in his history of Essex (i. 161), relates that the Archers derive themselves from Simon de Bois, who attended Henry V. at Agincourt, for which he received a pension of five marks a year for his life: and that he changed his name to Archer by command of the king for his excellence at a shooting-match before the monarch at Havering-at-Bower. John Archer, according to the same authority, was born in the latter end of 1598, and was the son of Simon Archer, an alderman of London, of Coopersale in Theydon-Bois, Essex, by Anne his wife, but his admission to the society of Gray's Inn on January 15, 1617, more correctly described him as the son of Henry Archer of Haydon Clairon in that county. The alderman was probably the uncle of the judge, who, in the latter part of his life, seems to have resided at the former place. He was educated at Queen's College, Cambridge, and took his degree of B.A. and M.A. in 1619 and 1622. His call to the bar was in March 1620, and his elevation to the bench of his Inn in 1648.

He is not named by any of the reporters of the reign of Charles I.; but that he was not a stranger to forensic

practice appears from his being selected in 1647 as counsel for the corporation of Grantham, and from his being engaged in 1651 as one of the counsel for Christopher Love, tried for high treason against the commonwealth before the high court of justice; though he was not allowed to plead for him because he had not taken the engagement. This sufficiently accounts for the fact that he was never employed by Cromwell; though, on his election for Essex in the Parliament of 1656, he was one of the members approved by the council.[1] Soon after the Protector's death, he was made a serjeant on Nov. 27, 1658; and on the restoration of the Long Parliament, was one of the judges appointed by that body on May 15, 1659. Whitelocke does not name the court to which he was then attached, but it may be presumed to have been the Common Pleas, as he is placed there on Jan. 17, 1660, when all the judges are designated with their particular courts. During the short time that elapsed before the return of the king he was assigned to go the northern circuit[2]; and, though on the Restoration he lost his seat on the bench, he was among the serjeants of the Interregnum who were immediately confirmed in the degree by the restored government.

Two years afterwards, on the promotion of Sir Robert Hyde to the chief justiceship of the King's Bench, Archer was selected to fill his place in the Court of Common Pleas, on Nov. 4, 1663. He sat there for nine years, when his services were interrupted in the Christmas vacation, 1672, by a royal prohibition; the reasons for which were unknown to Sir Thomas Raymond, who reports the fact, and adds that the judge, having been appointed "quamdiu se bene gesserit," refused to surrender his patent without a scire facias. As this would not have been a convenient proceeding he re-

[1] State Trials, v. 211; Parl. Hist. iii. 1480.

[2] Whitelocke, 675, 678, 693; Mercur. Polit. Feb. 16, 1660.

tained his position, and received his share of the fees till his death, though forbidden to sit in the court. His place in the meantime was supplied by Sir William Ellis[1], who was in his turn removed before Archer's death, to make way for Sir William Scroggs.

The only account of Archer as a judge is by Roger North (Life, 45-48), who says that he was one of those "of whose abilities time hath kept no record, unless in a sinister way;" and he describes him as always desirous of staving off a long cause; relating the mode in which Sir Francis North (afterwards lord keeper) played upon this weakness. He survived his removal more than nine years, dying on Feb. 8, 1682. His burial-place is in the churchyard of Theydon, where there is a monument to him.

He had two wives: one was Mary, daughter of Sir George Saville, Bart.; and the other Eleanor, daughter of Sir John Curzon, Bart. His son John by the latter lived at Coopersale in Theydon Garnon, and was knighted.[2]

ATKYNS, EDWARD.

B. E. 1660.

See under the Reign of Charles I. and the Interregnum.

No less than four generations of this family, which anciently came from Monmouthshire, attained legal honours. Thomas Atkyns was twice reader in Lincoln's Inn in the reigns of Henry VIII. and Edward VI., was judge of the sheriff's court in London, and argued the first case in Plowden's Reports: Richard his son was a reader in Lincoln's Inn in the time of Elizabeth, and chief justice of North Wales; Richard's third son by Eleanor, daughter of Thomas Marsh, Esq., of Waresby in Huntingdonshire, was Sir

[1] 1 Siderfin, 3, 153; T. Raymond, 217; T. Jones, 43.
[2] Wotton's Baronet. i. 162; ii. 246, 347.

Edward, the subject of the present sketch, whose two sons, Sir Robert and Sir Edward the younger, followed him in the same career.

Edward Atkyns was born about 1587, and studied the law at the same school where his grandfather and father had been distinguished. Admitted to Lincoln's Inn on February 5, 1600, he was called to the bar on January 25, 1613, became a governor of the society in 1630, and was chosen autumn reader in 1632. In the following year he was engaged as counsel for William Prynne, on his prosecution for writing the "Histrio Mastix," and was probably again employed by him in 1637, when he was prosecuted a second time in conjunction with Bastick and Burton; for the two latter, on their sentences being called in question by the Long Parliament in 1640, prayed that he might be one of the counsel assigned for them. He was included in the last call of serjeants made by Charles I. on May 19, 1640, and there is a patent in Rymer, dated on October 7 following, appointing Serjeant Edward Atkyns a baron of the Exchequer. Dugdale, however, does not mention it, and it is evident that, if it really passed the Great Seal, it was never acted on, for when in February, 1643, the parliament submitted their propositions to the king, they requested he would make "Mr. *Serjeant* Atkyns" a justice of the King's Bench.[1]

The Commons, though then disappointed, soon took upon them to fill the vacancies on the bench, and the serjeant, by their selection, was sworn a baron of the Exchequer on October 28, 1645. He continued till the death of the king, when, objecting to act under the usurping government, he courageously declined to accept a new commission. He was, however, induced afterwards to undertake the judicial office, and on October, 19, 1649, he became a judge of the Common Pleas, in the room of Mr. Justice Phesant. In

[1] State Trials, iii. 564, 761, 763; Rymer, xx. 447; Clarendon, iii. 407.

May, 1654, he was one of the presiding judges on the trial of Don Pantaleon Sa, the Portuguese ambassador's brother, for murder. The subsequent mention of him by Whitelocke, as having been made a judge with some others in May, 1659, arose, probably, from his being re-appointed by the Long Parliament, when they resumed their power.[1] But from the mode of Whitelocke's entering these appointments, and the paucity of reports, there is great uncertainty with regard to several of the judges named. On the second return of the Long Parliament, after the committee of safety had been dissolved, Atkyns was omitted in the nominations; but on the return of the king, so satisfactory had been the proofs of his loyalty, he was at once placed in his old position as a baron of the Exchequer, his patent being dated June 23, 1660, and was thereupon knighted. One of his first duties was to sit on the trials of the regicides, and one of the last was to assist in the trial of the rioters in 1668, who were charged with high treason; but in neither did he take a prominent part; and on the subsequent discussion of the judges, whether the latter offence amounted to high treason, he took the merciful view, and several of them were in consequence saved.[2]

With the character of gravity and learning as a judge, and of justice and charity as a man, he died in Michaelmas vacation, 1669, at Albury Hall in Hertfordshire, being then above eighty years of age. By his first wife, Ursula, daughter of Sir Thomas Dacre, of St. Andrew le Mott in that county, he had several children, two of whom became judges. His second wife, Frances, daughter of John Berry, of Lydd in Kent, and widow of —— Gulstone, of Hackney, whom he married in 1645, and who died in 1703, aged 104, brought him no issue.[3]

[1] Whitelocke, 178, 378, 590, 678. [2] State Trials, v. 986; vi. 912.

[3] Atkyns' Gloucestersh. 335; Chauncy's Herts, 149, 301; Noble's Contin. of Granger, ii. 295; 1 Siderfin, 435; Notes and Queries, 2nd series, ix. 294.

ATKYNS, EDWARD, JUNIOR.

B. E. 1679.

See under the reign of James II.

ATKYNS, ROBERT.

JUST. C. P. 1672.

See under the reign of William III.

BERTIE, VERE.

B. E. 1675. JUST. C. P. 1678.

VERE BERTIE was the fourth son of Montagu, second Earl of Lindsey, lord chamberlain, by his first wife, Martha, daughter of Sir William Cockayn, of Rushton in Northamptonshire, and widow of John Ramsay, Earl of Holderness. To the devoted loyalty of both his father and grandfather he probably owed his professional advancement, which was somewhat rapid. He was entered at the Middle Temple on January 29, 1654; was called to the bar on June 10, 1659, and, though chosen a bencher in January, 1673, the law reports are silent as to his forensic merits. In 1665 he received the honorary degree of M.A. at Oxford, on the occasion of the visit of the Earl of Manchester; and Collins states his employment by government as secretary of the treasury and treasurer of the ordnance, offices which are seldom the precursors of judicial honours. It may be presumed, however, that he was not altogether deficient in legal acquirements, inasmuch as, having first received the necessary imposition of the coif, he was appointed a baron of the Exchequer on June 4, 1675.

From that court he was removed on June 15, 1678, to the Common Pleas, where he sat for only ten months, being discharged from his place on April 29, 1679, with three other judges, viz. Sir William Wilde, Sir Edward Thurland, and Sir Francis Bramston. It is a remarkable circumstance that, five days previous, all these four judges were in the

commission for the trial of Nathanael Reading, indicted on the testimony of the infamous Bedloes, for endeavouring to stifle and lessen the king's evidence against the lords then in the Tower; and it may be a question how far their conduct or opinions on that trial caused their dismissal. Vere Bertie died unmarried ten months afterwards, on February 23, 1680, and was buried in the Temple Church.[1]

BRAMSTON, FRANCIS.

B. E. 1678.

FRANCIS BRAMSTON, the third surviving son of Sir John Bramston, the eminent chief justice of the last reign, by his first wife Bridget, daughter of Dr. Thomas Moundeford, was removed from a considerable school in Goldsmith's Alley, Cripplegate, London, kept by Mr. Farnabie, to Queen's College, Cambridge, where he took his degrees of B.A. and M.A., in 1637 and 1640, with great credit for his industry, learning, and sobriety. He was so feeble and unhealthy at this time, that Dr. Martin, the master, wrote to his father, that "it was a great pitie so great a soul should have so weak a body;" and to prove that this was no flattery, chose him in 1642 fellow of his college. In Sir John Bramston's autobiography, it is stated that Francis was intended for a divine; but that the civil war breaking out, he was sent to the Middle Temple. This must be a mistake, for he was admitted of that society so early as 1634, and was called to the bar on June 14, 1642, before the first blood was spilled, and four months before his father was discharged from his office. The troubles that followed putting a stop to his professional pursuits, "the drumming trumpets," as his brother expresses it, "blowing his gown over his ears," he travelled for four years into France and Italy, associating with Mr. Henshaw, Mr. Howard, and Mr. Evelyn. On his

[1] Collins's Peerage, ii. 19; Wood's Fasti, ii. 285; State Trials, vii. 261.

return, he lived with the well-affected on the moderate fortune left him by his father, and though he applied himself to his legal studies, he is not mentioned in the reports till the Restoration, when his steadiness to the royal cause secured him employment.

In August, 1660, he was made steward of some of the king's courts in Essex, and of the liberty of Havering; and in 1665, his university chose him for their counsel with a fee of 40*s.* a year. Having been called to the bench of his inn in 1663, his turn for reading occurred in autumn, 1668, when he took for his subject the statute 3 Jac. i. c. 4, "For the discovering and repressing of popish recusants." The book in which he transcribed his lecture was afterwards turned to better account by his brother, who used it as the receptacle of his interesting autobiography, published by the Camden society, under the careful editorship of the late Lord Braybrooke. The extravagance of the reader's feast on this occasion has been already noticed, and Evelyn relates that there were present at it "the Duke of Ormond, privy seal, Bedford, Belasys, Halifax, and a world more of earles and lords."

In the following year he was one of the large batch of serjeants who were created, and he received the stewardship of the Court of Pleas at Whitechapel, with a salary of 100*l.* His next advance was to the bench of the Exchequer, being constituted a baron on June 17, 1678. Within a year, however, he was summarily discharged from this seat with three other judges, Wilde, Thurland, and Bertie, all of them being dismissed on April 29, 1679, for no express cause, but upon the king's forming a new council of thirty, and admitting Lord Shaftesbury into the ministry as its president. Though a pension of 500*l.* a year was assigned to him, he "was never paid but only three terms," so low was the Exchequer then; and so difficult was it to obtain any payment, that the

arrears were not received till above three years after his death; and of the various delays and excuses in obtaining it, his brother gives a very amusing account. The judge did not, as some others did, resume his practice at the bar, but, keeping his chamber at Serjeant's Inn, he died there four years afterwards, on March 27, 1683, and was buried in Roxwell church. Never having been married, he left his brother, Sir John, his heir, whose character of him will best conclude this memoir.

"He was of stature low, well sett, and inclining to fatt. He was a good universitie schollar; I mean logician and philosopher, moderated very often at those exercises in the house; he had a good measure of knowledge in the civill law, and in schoole divinitie; an excellent historian, and thorowlie studied in the common law, which he made his profession, but hunted not after busines, neither truckinge with atturnies, nor fauninge or flatteringe the greate men, he gained a good name, and esteeme of all that knew him. In the little tyme he sat on the bench, he shewed both courage and learninge, and a good facultie in dispatching busines. He bore his discharge without much repining. The lord chancellor, the Earle of Nottingham, was not his friend, and Jones, the atturnie, his enemie, and influenced the chancellor very much."[1]

BRIDGEMAN, ORLANDO.

CH. B. E. 1660. CH. C. P. 1660. LORD KEEPER, 1667.

A YOUNGER son of the family of Bridgeman, originally settled in Gloucestershire, having removed to Exeter, became the father of Dr. John Bridgeman, who, after holding the living of Wigan in Lancashire, was made Bishop of Chester in 1619, and was allowed to hold the rectory of Bangor *in commendam*.

[1] Middle Temple books: Evelyn's Diary, i. 338, 341; ii. 303; Autobiog. of Sir John Bramston, xi. 29, 97, 163, 265.

By his wife Elizabeth, daughter of Dr. Helyar, canon of Exeter and archdeacon of Barnstaple, he was the father of five sons, the eldest of whom was the judge now to be noticed.

Orlando Bridgeman was born about the year 1606. After receiving his early instruction under his father's eye, he was removed, in July 1619, to Queen's College, Cambridge, where he took his bachelor's degree in January 1624. In November of that year he was admitted a member of the Inner Temple, and having been called to the bar on February 10, 1632, was made a bencher a few weeks before the restoration of Charles II. Although little is preserved of his earlier career, he had attained so high a reputation in the law in the reign of Charles I., that he was appointed attorney of the court of wards, solicitor-general to Charles, Prince of Wales, and had a grant in reversion of the office of keeper of the writs and rolls in the Common Pleas.[1]

In the Long Parliament of 1640, he was returned for Wigan, his father's former rectory, in which the family seems to have had some interest, as Anthony Wood relates that Sir Orlando about 1662 conferred the living upon John Hall, Bishop of Chester. He showed himself a strenuous supporter of monarchical government, voting against Lord Strafford's attainder, and opposing the ordinance by which the militia was taken out of the hands of the king.[2] When the civil war commenced he left the parliament, and assisted his father the bishop in keeping the city of Chester firm in its adherence to the royal cause. It was about this time that he was knighted, as he is called by that title in the list of members who assembled in parliament at Oxford, in January 1644. In the next year he was one of the king's commissioners in the fruitless endeavours to conclude a treaty of peace at Uxbridge; where Charles was somewhat dissatisfied

[1] Rymer, xx. 447, 541. Prince, by a misapprehension of this latter appointment, calls him erroneously Master of the Rolls.

[2] Parl. Hist. ii. 611, 756; Athen. Oxon. iii. 813; Whitelocke, 59.

at his carriage, expressing his surprise that the son of a bishop should have been willing to make any condescensions in matters of the church. Clarendon also joins in this censure, and, though giving him credit for excellent parts and honest inclinations, says "he was so much given to find out expedients to satisfy unreasonable men, that he would at last be drawn to yield to anything he should be powerfully pressed to do." On the ultimate success of the parliamentary party, Sir Orlando discontinued his practice at the bar, but as Ludlow relates (p. 401), "upon his submission to Cromwell, was permitted to practise in a private manner." He devoted his time to conveyancing, in which department he became, it is said, the great oracle not only of his fellow-sufferers, but also of the whole nation in matters of law—his very enemies not thinking their estates secure without his advice. After his death his collections were published under the title of "Bridgeman's Conveyancer," which had so high a reputation that five editions were issued from the press.[1]

His learning ensured him immediate employment on the Restoration. Two days after the king's return he was invested with the serjeant's coif, followed on the next day by his promotion to the office of chief baron of the Exchequer. In the same week his loyalty was rewarded with a baronetcy, in which he is described of Great Lever in Lancashire, a property not far from Wigan. Pepys speaks of another seat in the county soon after in Sir Orlando's possession, "antiently of the Levers, and then of the Ashtons," which, if it be Ashton Hall, as Lord Braybrooke in a note describes it, is near Lancaster at the other extremity of the county. Pepys says that having repaired and beautified the house, he caused four great places to be left in the great hall window for coats of arms. "In one he hath put the Levers', with this motto, 'Olim;' in another, the Ashtons', with this,

[1] Clarendon, iii. 448; v. 57; Life, i. 213; Law and Lawyers, ii 59.

'Heri;' in the next, his own, with this, 'Hodie;' in the fourth, nothing but this motto, 'Cras nescio cujus.'"[1]

The principal duty that he had to perform as lord chief baron was to preside at the trials of the regicides, which lasted from the 9th to the 19th of October, 1660. As a sincere loyalist, he naturally enlarged on the horror of the crime, and asserted that no person, or body of men, nor the people collectively or representatively, have any coercive power over the person of the king, a doctrine which many writers have disputed.[2] No sooner were these trials terminated, than Sir Orlando was promoted to the chief seat in the Common Pleas, his patent of chief justice being dated on October 22, 1660. He sat in that court for nearly seven years in high esteem as an able exponent of the law, and an impartial administrator of justice.

That he was sometimes too precise in his legal interpretations is exemplified by a story told by Roger North (p. 97), that when it was proposed to move his court, which was placed near the door of Westminster Hall and exposed to the wind, into a back room called the treasury, the chief justice would not agree to it, declaring it was against Magna Charta, which enacts that the Common Pleas shall be held *in certo loco*, in a certain place, with which he asserted the distance of an inch from that place is inconsistent, and that all pleas would be *coram non judice*.

On the removal of Lord Clarendon, the Great Seal was given to Sir Orlando on August 30, 1667, as lord keeper; but no successor was appointed to take his place in the Common Pleas till May, 1668. He, therefore, during the interval filled both offices, which it was said were not incompatible; and though he did not sit in his old court, fines appear to have been levied before him during the whole of the time.[3] While he held the Seal, both Pepys (iv. 88) and Evelyn (ii. 376), state that he resided at Essex House in the Strand.

[1] Pepys' Diary, i. 349.
[2] State Trials, v. 971–1230.
[3] 1 Siderfin, 2, 338; Dugdale's Orig. 49.

It is to Lord Clarendon's credit that he writes not a word in depreciation of his successor. Neither Burnet nor Roger North are so abstinent. The former says that in his new office he did not long maintain the esteem he had previously acquired, and that his study and practice had lain so entirely in the common law that he never seemed to apprehend what equity was; nor had he a head made for business and for such a court. Roger North is more particular in his animadversions. He described the lord keeper "as timorous to an impotence, and that not mended by his great age. He laboured very much to please every body, a temper of ill-consequence to a judge. It was observed of him that if a cause admitted of diverse doubts, which the lawyers call points, he would never give all on one side; but either party should have something to go away with. And, in his time, the Court of Chancery ran out of order into delays and endless motions in causes; so that it was like a fair field overgrown with briars." After holding the Seal for about five years, he was made the victim of the strong parties which opposed him;—not approving the policy they wished to adopt and having the courage to refuse his compliance with measures which he considered contrary to law.[1]

His removal, which took place on November 17, 1672, was ere long followed by his death. This event occurred on June 25, 1674, at Teddington in Middlesex, where he lies buried. All parties unite in acknowledging his amiable disposition, his honest principles, his piety, his moderation, and his learning; to the last of which the late Lord Ellenborough (14 East's Reports, 134)—himself a great authority—bore honourable testimony, in calling him "that most eminent judge," and speaking of "the profundity of his learning and the extent of his industry."

He married, first, Judith, daughter and heir of John

[1] Burnet, i. 253, 307; North's Lives, 88; Examen, 38.

Kynaston, Esq., of Morton in Shropshire; and secondly, Dorothy, daughter of Dr. Saunders, Provost of Oriel College, Oxford, and relict of George Cradock, Esq., of Carswell Castle in Staffordshire. By his first marriage he had one son; by his second two sons and a daughter. The baronetcy, of course, devolved upon Sir John, his son by the first venter; but a second baronetcy was granted in 1673, the year following Sir Orlando's retirement from the Seal, to the eldest son by the second venter, Sir Orlando Bridgeman of Ridley in Cheshire. The latter became extinct on the death of the third baronet in 1740; but the former still survives in the seventh generation. The fifth baronet was ennobled by the title of Baron Bradford in 1794, his father having married Anne Newport, the sister and heir of the last Earl of Bradford of that name. The son of this baron was advanced to an earldom in 1815, and his son, the present Earl of Bradford, is the direct lineal descendant of the lord keeper by his first wife.[1]

BROWNE, SAMUEL.

JUST. C. P. 1660.

See under the Reign of Charles I.

SAMUEL BROWNE was son of Nicholas Browne, Esq., of Polebrook in Northamptonshire, by Frances the daughter of Thomas St. John, Esq., of Cayshoe in Bedfordshire, the grandfather of Oliver St. John, the chief justice of the Common Pleas in the time of the Protectorate: so that these two judges were first cousins. Samuel was admitted pensioner of Queen's College, Cambridge, on February 24 1614. He commenced the study of the law in Lincoln's Inn, on October 28, 1616. By that society he was called to the bar on October 14, 1623, and elected reader in autumn 1642. He was returned member for the boroughs of

[1] Wotton's Baronet. iii. 13; Collins' Peerage, viii. 367; Prince, 133.

Clifton, Dartmouth, and Hardness, in the Long Parliament of November 1640; and in February 1843, no doubt by the influence of his cousin St. John, who was then solicitor general, he was recommended by the parliament to be a baron of the Exchequer, in the propositions made to the king for peace, which came to nothing. In the following November he and St. John were two of the four members of the House of Commons to whom, with two lords, the new Great Seal was entrusted.[1]

The commoners so appointed still continued to perform their parliamentary functions. Lord Commissioner Browne was most active in the proceedings against Archbishop Laud; summing up the case in the House of Lords and carrying up the ordinance for his attainder passed by the Commons in November 1644.[2] His position did not exempt him from the inconveniences of the civil war. He had to complain to the parliament in December 1644 that his house at Arlesley in Bedfordshire was used for quartering troops, and he procured an order for their removal out of the county.[3] In July 1645 he acted as chairman of the committee to inquire into the charges made by Lord Savile against Hollis and Whitelocke, and is represented by the latter to have pressed the matter against them more than a chairman ought. After remaining in office for nearly three years, the lords commissioners were removed in October 1646, and the Great Seal transferred to the speakers of the two houses. Resuming then his practice at the bar, where by a vote of the house precedence was given him, he was included in the batch of twenty-two who were made serjeants by the parliament on October 12, 1648; when both he and his cousin were also elevated to the bench, he as judge of the King's Bench, and St. John as chief justice of the Common

[1] Wotton's Baronet. iv. 178; Parl. Hist. ii. 606; iii. 70, 182.
[2] State Trials, iv. 576, 596. [3] Journals, iii. 734.

Pleas. Just previous to this he had been sent as one of the commissioners to treat with the king in the Isle of Wight; and what he witnessed there of his majesty's bearing, and the unseemly return with which it was met by the parliament's subsequent proceedings, tended no doubt to open his eyes to the violent objects of the party to which his cousin St. John was attached. He resolved, therefore, no longer to follow in his footsteps, but when the king, three months later, fell a victim to its machinations, he boldly refused to act as a judge under the usurped government, and, with five of his colleagues, resigned his seat on the bench.[1]

This conduct so effectually atoned in the eyes of the royalists for everything that might be deemed objectionable in his former acts, that on the restoration he was not only immediately reinstated as a serjeant, but within six months was replaced on the bench, being constituted on November 3, 1660, a judge of the Common Pleas, where he retained his seat till his death in Easter term, 1668.[2] He was buried under a monument still existing in the church of Arlesley.

He married Elizabeth, daughter of John Meade, Esq., of Nortofts, Finchingfield, Essex; and the connection with the St. Johns was continued by his son or grandson, Samuel, marrying a grand-daughter of the chief justice, a union which produced no male issue.[3]

CHARLETON, JOB.

JUST. C. P. 1680.

See under the reign of James II.

CHURCHILL, JOHN.

M. R. 1684.

See under the reign of James II.

CLARENDON, EARL OF. *See* E. HYDE.

[1] Whitelocke, 154, 158, 226, 334, 342, 378; Journals.
[2] 1 Siderfin, 3, 4, 365. [3] Morant's Essex, ii. 366.

COLEPEPER, JOHN, Lord Colepeper.

M. R. 1660.

See under the Reign of Charles I.

This very ancient Kentish family was divided as early as the time of Edward III., into two principal branches; one settled at Preston Hall, near Aylesford, to which the judge of the Common Pleas in the reigns of Henry IV. and V. belonged; and the other seated at Bay Hall, near Pepenbury, and spreading into several minor branches, from one of which the subject of the present memoir descended. John Colepeper was the son of a knight of the same name, living at Wigsell in Sussex, whose immediate ancestor resided at Bedgebury, near Goudhurst, in Kent. Little is mentioned of his early life, except that he spent some years in foreign parts, doing good service as a soldier, and reputed to be of great courage, but of a rough nature, his hottemper leading him too frequently into quarrels and duels. Leaving that course of life, he married and settled in the county of his ancestors, where he soon became popular among his neighbours; and, in consequence of the knowledge of business which he exhibited, and the ability with which he conducted it, he was frequently deputed by them to the council board, and at length was elected member for Kent in the Long Parliament.

The occasion on which he was knighted is not recorded; but he received that honour before he entered the House of Commons. Within a week after its meeting, he summed up in an eloquent speech the grievances of his country, concluding thus: "One grievance more, which compriseth many; it is a nest of wasps, or swarm of vermin, which have overcrept the land; I mean the monopolies and polers of the people. These, like the frogs of Egypt, have gotten possession of our dwellings, and we scarce have a room free from them.

They sup in our cup. They dip in our dish. They sit by our fire. We find them in the dye-vat, wash-bowl, and powdering-tub. They share with the butler in his box. They have marked and sealed us from head to foot. Mr. Speaker, they will not bate us a pin. We may not buy our own cloaths without their brokage. These are the leeches that have sucked the commonwealth so hard that it is almost become hectical." In the same speech, he expresses a loyal reliance on the king's desire to open his ears to the just complaints of his subjects. He took an active part in the debates, and, though his person and manner of speaking were ungracious enough, yet such was his strength of reasoning, that "no man more gathered a general concurrence in his opinion than he."[1]

The king, sensible of his value, admitted him of his Privy Council, and on January 6, 1642, made him chancellor of the Exchequer.[2] During that eventful year, he, with the assistance of Lord Falkland and Edward Hyde, though sometimes disconcerted by the king's hasty measures, did what he could to serve his majesty. He acquired great influence, but his counsels were not always very wise or temperate. To his advice is attributed the king's consent to pass the bill for removing the bishops from the House of Peers; the transference of the court from Windsor to York; and the attempt to obtain possession of Hull. After the royal standard had been set up at Nottingham, Colepeper was one of the bearers of the king's message to the Commons, with an offer to treat, so as to prevent the effusion of blood and the miseries of civil war. He must have anticipated the answer, from the manner in which he was received by the house. They would not permit him to take his seat as a member, but obliged him to deliver his message at the bar, and then withdraw.[3]

[1] Rushworth, ii. 917; Clarendon's Rebellion, ii. 94.
[2] Rymer, xx. 516. [3] Whitelocke, 61.

On January 28, 1643, he was promoted to the mastership of the Rolls[1], an office for which his previous education had in no degree prepared him. He took it as adding to his dignity and profit, without regard to its accustomed duties, for in those troubled times, there was less need of lawyers than of counsellors and soldiers. As a counsellor, he was used on the most private occasions, and was added to the junto, which, as a cabinet council, managed the king's affairs; as a soldier, he was ever by the king's side, and took part in all his battles with the most distinguished bravery.

In reward for these services, the king, of whom he was the most intimate adviser, on October 14, 1644, created him a peer, by the title of Lord Colepeper, of Thoresway in Lincolnshire, and named him of the council of the Duke of York. At the beginning of the next year, he was one of the commissioners on the part of the king, in the proposed treaty of Uxbridge. A very unpromising commencement was made by the parliament's refusing to recognise the peerage of Colepeper, or the titles of any of the others which had passed the Great Seal since Lord Lyttelton had sent it to the king. The commissioners wasted their time principally in religious discussions, and the treaty was ultimately broken off. In the calamitous events which followed, Lord Colepeper was zealously and actively engaged in serving the king and Prince Charles, the latter of whom, in 1646, he accompanied to Paris to join the queen. From this time he was the constant companion of the prince in his wanderings; and while at the Hague, in 1648, he had a serious quarrel with Prince Rupert, who was strongly prejudiced against him, which, but for Hyde's interference, might have led to a fatal result. When Prince Charles became king by the tragic death of his father, he sent Lord Colepeper to Russia, to obtain money to supply his necessities; and the mission

[1] Docquets of Patent, &c, at Oxford.

resulted in the Czar granting 50,000*l.* in rich commodities, to be so employed.[1]

At the Restoration he accompanied the king to England, and resumed his place of master of the Rolls, the functions of which he had never exercised since it was conferred upon him by Charles I., the parliament having given it to their speaker Lenthall. Neither was he now destined long to enjoy it, for within little more than a month after his landing in England, he was seized with an illness, of which he died on July 11, 1660. He was buried in the church of Hollingbourn in Kent, in which and the neighbouring parish the family property, including Leeds Castle, was situate.

Lord Clarendon, though evidently jealous of his ascendency over Charles I., and certainly not prepossessed in his favour, gives him full credit as well for his great parts, ready wit, and universal understanding, as for his sufficiency in council, his courage in the field, and his devoted fidelity. His letter to the chancellor, just after Cromwell's death, as to the counsels to be pursued, and the probable course of General Monk, confirms the opinion of his wisdom, and seems to be dictated by prophetic inspiration.[2]

By his first wife, Philippa, daughter of —— Snelling, Esq., he had one son, who died young. His second wife, who was his cousin, Judith, daughter of Sir Thomas Colepeper, of Hollingbourn, knight, brought him four sons, the three elder of whom enjoyed the title in succession, which then, for want of male issue, became extinct in 1725.[3]

COOPER, ANTHONY ASHLEY, LORD ASHLEY AND EARL OF SHAFTESBURY.

LORD CHANCELLOR, 1672.

THE ancestors of this sagacious but versatile statesman were of the class of opulent gentry; but from the frequent

[1] Whitelocke, 125, 133, 466.
[2] Seward's Anecdotes, iv. 388.
[3] Dugdale's Baron. ii. 472.

occurrence of the surname, his direct lineage cannot with certainty be traced beyond the reign of Henry VII. The first named in his pedigree is John Cooper, his great-great-grandfather, who possessed estates in Sussex and Hants, and died in 1495. His great-grandfather Richard, designated Solutarius under Henry VIII., purchased Paulett in Somersetshire, and died in 1566. His grandfather John represented Whitchurch in parliament, and was knighted by Queen Elizabeth. John, on his death in 1610, was succeeded by his son, also John, who was created a baronet in 1622, was member for Poole in 1628, and by his first marriage with Anne, daughter and heir of Sir Anthony Ashley of Wimbourne St. Giles, baronet, became the father of two sons, the eldest of whom was the future lord chancellor.

Anthony Ashley Cooper was born at Wimbourne St. Giles, on July 22, 1621; and having the misfortune to lose his father in 1631, he inherited a large estate before he was ten years of age. From Puritan private tutors he received his early instruction, till, in Lent Term, 1636, he was entered a fellow-commoner at Exeter College, Oxford. Under the tuition of Dr. Prideaux, the rector, afterwards Bishop of Worcester, he made such progress as to be accounted, according to the description of his eulogist, "the most prodigious youth in the whole university." By his own account he was more famous for putting an end to the "ill custom of tucking freshmen," and for preventing an alteration in "the size of the beer."[1] Remaining at college about two years, he then, in consequence of law-suits in which he was involved with some near relatives, caused himself to be admitted into the society of Lincoln's Inn, on February 18, 1638. His legal

[1] Christie's Shaftesbury Papers, 17. "Tucking a freshman," was a vile custom in the University, by which the seniors called the freshmen to the fire, and with their thumb-nails grated off all the skin from the lip to the chin of the unfortunate novices, and then made them drink a beer-glass of salt and water.

studies there, which he pursued with equal diligence and success, when not engaged in the pleasures and duties of a country gentleman, were not interrupted till the commencement of the great rebellion: for, though he was elected member for Tewkesbury in the parliament of April, 1640, when he was not yet nineteen, his senatorial duties, during the short time it lasted, could not have been very onerous; and he was not admitted a member of the Long Parliament, which began its eventful sittings in the following November, although elected for Downton in Wiltshire, by a double return, decided in his favour by the committee of privileges; that body having omitted, purposely, to report their decision to the house.

At the commencement of the contest between the king and the parliament, Sir Anthony was a professed loyalist. In 1642 he acknowledges that he was with the king at Nottingham and Derby, adding evasively, "but only as a spectator;" yet soon after he accepted a commission from the Marquis of Hertford, the king's general, to treat for the surrender of Dorchester and Weymouth. This he effected, and was thereupon made governor of the latter place, colonel of a regiment of foot, and captain of a troop of horse, both of which he raised at his own charge. And, after Hertford's dismissal, he received the king's confirmation in his government, and the appointments of high sheriff of Dorset and president of the council of war in those parts.

But the baronet's loyalty was not very deeply rooted. According to Clarendon, when it was thought necessary to substitute Colonel Ashburnham in his place as governor of Weymouth, he took such offence that he deserted his colours and, immediately joining the other side, gave himself up "body and soul to the service of the parliament, with an implacable animosity against the royal interest." He himself says in his autobiography that, notwithstanding a flatter-

ing letter from the king, he resigned his government and came away to the parliament, "resolving to cast himself on God, and to follow the dictates of a good conscience." Mr. Locke gives a somewhat different account of the cause of his defection: but the uncontradicted fact remains, that he went over to the malcontents, and was hailed by them as a great acquisition. He was at once entrusted with a command as field-marshal-general of the army in Dorsetshire; and with his forces he besieged and took Wareham; and commanded in chief at the taking of Blandford and Abbotsbury, and in the relief of Taunton, besieged by the Royalists. His military career seems to have terminated with the year 1645; in the September of which Whitelocke says that he "professed his great affection to the parliament, and his enmity to the king's party from whom he had revolted; an entry which seems unnecessary at this time when he had rendered such important services, but which may probably be explained by supposing that he was then renewing his attempt to have his right to his seat for Downton acknowledged. Though he did not succeed in this, he was in such favour and trust with the parliament, that in November he was made sheriff of Norfolk[1], and in January, 1647, sheriff of Wiltshire, with the additional favour of permission to live out of the county. During the two months previous to the king's execution, he was at his house in Dorsetshire; and that event is not even noticed in his diary, which merely records his arrival at Bagshot in his journey to London, where he arrived on the following day. He subscribed the engagement in 1650, and in January 1652, he was appointed one of the committee on the abuses and delays of the law, and the remedies to be adopted. For his former connection with the king he had been permitted in 1644 to compound by the payment of 500*l.*, which was afterwards remitted by Cromwell; but he was not

[1] Supposed to be a mistake. Shaftesbury Papers, 66, note.

entirely cleared of his delinquency till March 1653, when the Commons passed the following resolution: "That Sir A. A. Cooper, bart., be and is hereby pardoned of all delinquency, and be and is hereby made capable of all other privileges as any other of the people of this nation are." For several years before this time he had been quietly engaged in the usual avocations of a country life, and in acting, both before and after the king's death, on various commissions from the parliament.[1]

On the forcible expulsion of that body, Sir Anthony was summoned to Barebones Parliament in July, 1650, as one of Cromwell's nominees for Wiltshire; and was elected for the same county, and also for Poole and Tewkesbury, in the subsequent parliament, which met in September 1654, and which was dissolved in the following January. In both these assemblies he was in Cromwell's confidence, acting in his interest in each, and being one of his council of state, both as general and protector. Dryden, in his "Medal," with much malice, but with some apparent truth, describes him at this time as,

> A vermin, wriggling in th' usurper's ear;
> Bart'ring his venal wit for sums of gold,
> He cast himself into the saint-like mould,
> Groan'd, sigh'd, and pray'd, while godliness was gain,
> The loudest bagpipe of the squeaking train.

But soon another change took place. From the supporter, he became the enemy of Cromwell, who, according to Anthony Wood and Ludlow[2], understanding his character, refused to receive him as his son-in-law. Whatever was the cause, it is certain that in the parliament of September, 1656, to which he was returned again for Wiltshire, he did not receive the requisite certificate of approval from the council;

[1] Whitelocke, 98, 121, 173, 178, 233; Shaftesbury Papers.

[2] In a suppressed passage, printed in Christie's Shaftesbury Papers, 116.

and he was, consequently, with above ninety other members in the same predicament, partly Presbyterians and partly Republicans, excluded from sitting, notwithstanding the bold remonstrance against this tyrannous proceeding, addressed by them to the house. Those who remained, having confirmed Cromwell's power, and enabled him to appoint a certain number of peers, the excluded members, taking the oath of fidelity to the protector, were admitted to sit in the session that followed in January, 1658, and by their number nearly overturned all that had preceded. A controversy was immediately raised, in which Sir Anthony actively joined, as to the title and privileges of the "other house," as it was called, which was carried on with so much violence that the Protector hurriedly dissolved the parliament, after a fortnight's sitting. He never called another during his life, which terminated seven months afterwards.

The short session of Protector Richard's parliament, to which Sir Anthony was returned both for his old county and for Poole, was wasted in tiresome and insidious debates, renewing the old question about the "other house," and discussing various points in the new form of government. In these Sir Anthony took a prominent part; and in a published speech of great satirical power, he had the bad taste to blacken the character of the Protector, who had fostered him, and with whose administration he had been intimately connected.[1] The dissolution of this parliament on April 22, 1659, was Richard's fall; and the Rump Parliament, which then resumed its sittings, appointed a council of state, of which Sir Anthony was elected as a member. His fidelity to the Commonwealth began, however, to be doubted. In May, he was publicly charged with holding correspondence with the king; and so loud were his professions of innocence, and his imprecations on himself if

[1] Burton's Diary, iv. 286; Shaftesbury Papers, 202.

he were guilty, that they only added weight to the suspicions against him. Whether he was imprisoned on this charge seems uncertain; but it was some months before he got rid of it. Though there can be little doubt that he was engaged in the plots that were then contriving in behalf of the king, he managed so artfully that he procured his acquittal by the parliament in the following September.[1] On the second expulsion of the Rump by the army, in October, the government was carried on by a council of safety, whose powers lasted only two months, when the Rump was again restored. To this last event Sir Anthony mainly contributed, and was admitted upon his former election, to take his seat for Downton on January 7, 1660. Besides resuming his position as a member of the council of state, he was made colonel of the regiment of horse lately commanded by Fleetwood, with which he joined Monk, and continued to act in conjunction with that general till the restoration of the king.

The Long Parliament dissolved itself in March, 1660; and to the convention, or Healing Parliament, that met in the following month, Sir Anthony was returned by his old constituents. He was one of the deputation sent by the two houses to the Hague, to invite the king to return; and was among the first who were sworn of the privy council; "the rather," says Clarendon, "because, having lately married a niece of the Earl of Southampton, it was believed that his slippery humour would be easily restrained and fixed by the uncle." When that earl was made lord high treasurer in September, 1660, Lord Clarendon states that Sir Anthony was appointed chancellor of the Exchequer. Other authorities delay his entrance into the office till May, 1667; but Clarendon's account is confirmed, not only by several documents, addressed to him in that character in the State Paper Office, but by Shaftesbury himself, in his speech in 1672, on

[1] Whitelocke, 679, 683.

Mr. Serjeant Thurland's being constituted a baron, in which he alludes to his "eleven years' experience in that court."[1] He has been blamed, though without much reason, for allowing himself to be named on the commission for the trial of the regicides, in the proceedings of which, however, he does not appear to have taken any part. On April 20, 1661, he was called up to the house of peers by the title of Baron Ashley, of Wimborne, St. Giles; the introduction to his patent, while it records his loyalty "in many respects" to King Charles I., and his assistance in restoring King Charles II., carefully abstaining from all allusion to his conduct in the interval, in deserting the former king, in aiding his rebellious subjects, and in joining in the counsels of the usurper.

Till the death of his uncle Southampton in 1667, Lord Ashley took comparatively little ostensible interest in party politics, but showed himself an adept in the business of the state. At the same time, he was preparing his way by making himself agreeable to the king, and by encouraging, or at least countenancing, the scandalous intrigues of the court. Ever ready in repartee, in which the king delighted, he once, when his majesty, in reference to his amours, said railingly to him, "I believe thou art the wickedest fellow in my dominions," replied with a low bow and grave face, "Of a *subject,* may it please your majesty, I believe I am."

On the dismissal of Lord Chancellor Clarendon in that year, a new career was opened to Ashley's ambition. He had already been appointed lord lieutenant of Dorsetshire, and president of the new council of trade and plantations; and gradually ingratiating himself with his easy sovereign, as well by his pliancy and wit as by his facility in the invention of expedients, he soon became one of a secret cabinet with Buckingham, Clifford, Arlington, and Lauderdale, by

[1] Clarendon's Life, i. 370; Rawleigh Rediv. 81; Book of Dignities, 109.

which every measure was determined before it was brought publicly forward, and which, from the initials of the names of its members, acquired the designation of the CABAL. Their ministry was rendered conspicuous by the shutting-up of the Exchequer, the rupture of the triple alliance, and the mismanagement of the religious questions which then agitated the country; but though the discredit of these measures has been generally fathered upon Lord Ashley, Mr. Christie, in the Shaftesbury papers (vol. ii. pp. 77, 90), has shown satisfactorily that he objected to and opposed the two former. Whether he were the opponent or supporter of them, the king, regarding him with personal affection, and appreciating his abilities, raised him to the earldom of Shaftesbury on April 23, 1672. Not satisfied with this elevation, the new earl aspired to a still higher position, for the attainment of which the removal of Lord Keeper Bridgeman was necessary. His intrigue for that purpose was successful. An opportunity soon was taken, on the lord keeper's resistance to some of the ministerial measures, to represent him as weak and incapable, and the Great Seal being consequently taken from him, was given to Shaftesbury on the 17th of the following November, with the title of lord chancellor. While he held that office, he resided at Exeter House, in the Strand.

Though educated at Lincoln's Inn, he had never practised as a lawyer, his time during the rebellion having been employed in active service, and since the restoration in court attendance. The consequence was, that he had so little respect for the profession for which he had been intended, that he despised the forms by which its proceedings were regulated, and even refused to assume the decent habit of a judge. "He sat on the bench in an ash-coloured gown, silver-laced, and full-ribboned pantaloons displayed, without any black at all in his garb;" and, at

first, setting all rules at defiance, he was frequently obliged on rehearing, to reverse his own orders; so that, at last, he became more reasonable, and submissive to the formulæ of the court. Without regarding the extravagant praises of his eulogists on the one side, or the adverse insinuations of his detractors on the other, his decrees in chancery would appear to have met with general approbation; for in Dryden's severe description of him under the name of Achitophel, he gives him full credit for judicial integrity, in the following expressive lines:

> Yet fame deserved no enemy can grudge;
> The statesman we abhor, but praise the judge.
> In Israel's courts ne'er sat an Abuthden
> With more discerning eyes or hands more clean;
> Unbrib'd, unbought, the wretched to redress,
> Swift of despatch, and easy of access.

King Charles, too, is reported to have said of him, on deciding a very difficult case, that "he had a chancellor that was master of more law than all his judges, and was possessed of more divinity than all his bishops." Lord Campbell would have us believe that he was a bad judge, but he fails in his endeavours to refute any of the points of Dryden's eulogium.

It was not in Shaftesbury's nature to be steady; even the high position which he enjoyed could not fix him. Finding the opposition more strong than he expected, and fearing the personal consequences which the leaders threatened, he determined to avert the danger by joining their ranks. Even while chancellor, he shewed his wavering disposition by gradually deserting the measures he had originated, and endeavouring to thwart the objects of the king. But his immediate hopes were disappointed: his plans being discovered, the parliament was prorogued, and the Seal taken from him on November 9, 1673, after a tenure of less than a year.

Immediately on his disgrace, he was the chosen leader of the discontented party; and without entering into the question as to the policy pursued on either side, for which this is not the place, we can only look to the repeated treachery of the man. From an arbitrary minister, he was converted into the head of a popular faction, and from a royal favourite, he became the king's enemy, ungratefully repaying the honours and favours he had received, by continual attempts to injure and ruin the family of his benefactor. It bears too strong a resemblance to his former defections, and exhibits, if not the perfidy, at least the fickleness of his character.

The remainder of his life was spent in factious opposition, his chief object apparently being to exclude the Duke of York from the succession. For this purpose, he entered into all sorts of intrigues and conspiracies, exciting the cry of "No Popery," and pretending, first, that his own life was in danger from the Roman Catholics, and next, that the murder of the king was their object. Foremost in opposing all the measures proposed by the court, his manœuvres at one time subjected him to an imprisonment in the Tower for nearly a year, and at another they were so far successful, that he forced himself again into the ministry as president of the new council of thirty. This event was effected in April, 1679, on the fall of the Earl of Danby, and during the excitement produced by the pretended Popish plot, which had been openly nurtured by Shaftesbury, and aided by him through all its ramifications, encouraging its inventor, the infamous Titus Oates, and explaining away his various contradictions, and those of his perjured coadjutors. Even during his presidency, he continued to counteract the wishes of his royal master; and, opposing a bill offered by the king, limiting the powers of a catholic successor to the throne, supported one to exclude the duke from the throne itself.

On this, the king, who had never trusted his mutable minister, designating him (from his stature and his falsehood) as "Little Sincerity," dismissed him from his councils in the following October. He then became more violent and less cautious in his endeavours to harass the court. He made an attempt to present the Duke of York as a recusant, which was defeated by the judges suddenly discharging the grand jury; he advocated, if he did not originate, another bill of exclusion, which, though it passed the House of Commons, was triumphantly rejected by the Lords; and he even proposed a bill divorcing the queen, that the king might marry again and have a Protestant heir.

The violence of his agitation at length caused its own defeat. The people began to open their eyes, and the Court ultimately regained the ascendency. From the popular and patriotic leader, Shaftesbury became the suspected and trembling traitor. He was arrested and committed to the Tower in July 1681; and, though an indictment against him for compassing and imagining the death of the king was thrown out in the following November by a grand jury packed by sheriffs of his own party [1], the discovery of a treasonable association, in which he probably was engaged, and the fear lest his connection with other desperate projects should be betrayed, made it advisable for him to fly the country. By various disguises and concealments he eluded a warrant issued against him, and at last succeeded in escaping to Amsterdam, where two months after he died on January 21, 1683, of the gout in his stomach. His remains were conveyed to England, and buried at Wimborne St. Giles, where his great grandson in 1732 erected a noble monument with just such an encomiastic inscription as might be expected from an admiring descendant.

[1] To commemorate this event, a medal was worn by his adherents, which is the subject of Dryden's bitter poem called "The Medal."

While on his mission to King Charles in Holland in 1660, he received an injury from the overturning of his carriage, which caused him great inconvenience in his after life, and obliged him to have continued recourse to medical advice. Among those who attended him was the celebrated philosopher John Locke, then a young man, with whom his lordship was so much pleased that he took him into his household, entrusted to him the education of both his son and grandson, and, when in office, placed him in some responsible and profitable positions. Shaftesbury's publications are confined to speeches and political pamphlets at different periods of his life, and contain abundant evidence, were all else wanting, of his unprincipled mutability and his restless turbulence.

No one can read without feelings of melancholy, if not of disgust, the annals of this reign, especially that part of it during which the Earl of Shaftesbury was the principal mover on one side or the other. The violence of party spirit was so great that each section deemed it justifiable to ruin and destroy the other by any means whether fair or foul. Witnesses did not hesitate to swear falsely; subornation of perjury was practised by men eminent in station, and the administrators of the law purposely shut their eyes to the most palpable contradictions, and openly encouraged witnesses of the most infamous character. Murder was perpetually committed in the name of justice; families ruined by the suggestions of concealed enemies, and religionists of every shade, except that of the Church of England, suffered continual persecution. The House of Commons instead of remedying or repressing these evils, disgraced itself by stirring up the violence of the people, and by encouraging every project that tended to annoy the king, to whom they refused or delayed the supplies which were necessary for the prosecution of the wars upon which they had urged him to enter. The lords, though generally loyal, had too many members inclined to pursue the same obnoxious system; the

jealousy of rivals and the rancour of personal enmity frequently inducing men to support measures which in their hearts they disapproved. Corruption was rife in both houses, and some of the most popular men of the time are now proved to have received bribes from a foreign power. The Court was equally demoralised; the king by his easy and joyous disposition gave encouragement to the ribaldry and looseness of his courtiers; by his extravagance he wasted his personal revenue, and by his example he countenanced the gross immorality that prevailed. Living in open adultery, he insulted his neglected wife by forcing his mistresses into her service: and he disgraced himself and degraded England by becoming a pensioner of France. Though he may plead some excuse for the last in the conduct of the Commons, who refused to supply the means of defence, every Englishman, be he whig or tory, must cry shame on the expedient. Shaftesbury is charged with participating in all the vices of the time except that of being tempted by pecuniary bribes; and though all must acknowledge his talents, his eloquence, and his wit, his memory must be regarded with repugnance by all who remember the various desertions and intrigues of his career, and the factious fickleness of his character. His only claim for the respect and gratitude of posterity is the Habeas Corpus Act, which was passed by his instrumentality.

The earl married three times. First, so early as 1639, to Margaret, daughter of Thomas Lord Coventry, lord keeper, who died in July 1649. Secondly, in April 1650, to Frances, daughter of David Cecil, Earl of Exeter, who died in 1654. And lastly, in 1656, to Margaret, daughter of William Lord Spencer of Wormleighton, and niece to the Earl of Southampton, who survived him. He had issue by his second wife only, two sons, of whom one survived him. Of his descendants the third earl was the celebrated

author of the 'Characteristics;' and the present, the seventh earl, has already acquired a high reputation for his charitable exertions for the good of mankind.

CRAWLEY, FRANCIS.

CURS. B. E. 1679.

FRANCIS CRAWLEY was the second son, and ultimately the heir of Sir Francis Crawley, the judge of the Common Pleas in the reign of Charles I., and Elizabeth his wife, daughter of Sir John Rotheram, of Luton in Bedfordshire. The son was also of Gray's Inn, being admitted on August 7, 1623, when his father was reader, and called to the bar on February, 1638. His appointment to the office of Cursitor Baron of the Exchequer took place in 1679, when he must have been nearly seventy years of age; and he held it for four years, his recent decease being mentioned in the patent of his successor, Sir Richard May, on March 17, 1683.

He is described as having an estate of 1000*l.* a year in Bedfordshire in 1660, when he was named as one of the knights of the contemplated Order of the Royal Oak; but he afterwards resided at Northaw in Hertfordshire. By his wife, Mary, daughter of Richard Clutterbuck, Esq., he had seven children, four sons and three daughters, the descendants of whom now flourish at Stockwood Park in Hertfordshire.[1]

DOLBEN, WILLIAM.

JUST. K. B. 1678.

See under the reign of William III.

ELLIS, WILLIAM.

JUST. C. P. 1672. Again 1679.

NOBLE, in his House of Cromwell (i. 437), states that the William Ellis, who was solicitor-general to the Protector,

[1] Ex. inf. Henry H. Gibbs, Esq. See vol. vi., p. 287, note 2.

became judge of the common pleas under Charles II.; and, notwithstanding the apparent improbability that one who had held so prominent a ministerial office under the Commonwealth should be selected to fill a judicial one under the monarchy, there seems little reason to doubt that the solicitor and the judge were one and the same individual. The appointment as solicitor is dated 1654, and the judge was chosen bencher of Gray's Inn in that year, a position generally given on the elevation of a barrister to a high office under the government. The solicitor was a member of the parliaments of 1640 and 1654 for Boston, and in those of 1656 and 1659 for Grantham; the first being the place that the judge represented afterwards in 1679, and the last being the place of his father's residence. These facts are sufficient to support the identity.

The family of Ellis or Ellys is said to have been originally Welsh, but afterwards to have settled in Lincolnshire. Sir William Ellis, an ancestor of the judge, was an eminent lawyer in the reign of Queen Elizabeth, and from him descended Thomas Ellis of Grantham, who had two sons, Thomas and William. The former was made a baronet in 1660 for his loyalty during the rebellion, but the title became extinct in 1742; the latter sided with the opponents to the crown, and was the future judge.[1]

William Ellis was born about 1609, and was sent for his education to Caius College, Cambridge, where he took his degrees of B.A. and M.A. in 1632 and 1636. He had been admitted into Gray's Inn on Nov. 6, 1627, and was called to the bar on February 9, 1634. The town of Boston returned him to the Long Parliament in 1640, where he subscribed the solemn league and covenant: but, in consequence of voting "that the king's answers to the propositions of both houses were a ground for peace," he was one of those ex-

[1] Wotton's Baronet. iii. 90; Grandeur of the Law (1684), 73.

cluded from the house by Pride's Purge, in December 1648. Whitelocke states (p. 405) that he was readmitted in the following June; and accordingly he is found among the Rump who resumed their sittings on the dissolution of Protector Richard's government in 1659.[1]

In the meantime, however, he had accepted office under Cromwell, being appointed solicitor-general to his highness on May 24, 1654; the functions of which he continued to perform under Protector Richard.[2] In the parliament of 1654 he was returned for Boston, and in those of 1656 and 1659 for Grantham, having in the interim received a baronetcy from the protector. In the two former he took scarcely any part in the debates, and Burton records little more of him than that on April 24, 1657, he appeared in the House "for the first time since the sad accident of his leg broken." In Richard's Parliament he showed greater activity, but all his speeches, as reported by Burton, were in a sober and accommodating spirit. Having from the beginning been an adherent to the supporters of the Commonwealth, it is not surprising that he was opposed in his attempt to be re-elected at Grantham to the Healing Parliament of 1660, nor, though he was so far successful as to procure a double return, that he should be excluded when it sat. Probably his brother's loyalty, added to his own insignificance, preserved him from censure or even notice at the Restoration.[3]

Losing his title and his place on the king's arrival, he fell back into the legal ranks, and pursued his profession with so much success, that, after having been chosen reader of his inn in autumn, 1663, he was called serjeant in 1669, and made one of the king's serjeants on April 20, 1671, when he was knighted. On Judge Archer's being disabled to sit in

[1] Parl. Hist. ii. 611; iii. 1248, 1547.

[2] 4 Report Pub. Rec. App. ii. 190; Wood's Fasti, i. 446; Noble.

[3] Parl. Hist. iii. 1430, 1480, 1533; iv. 4, 1081.

court, Sir William was appointed to fill his place in the Common Pleas on Dec. 18, 1672; and during the four years he remained there the most important judgment pronounced by him was that affirming the decision of the King's Bench in Barnardiston *v.* Soame, in which he was joined by Sir Robert Atkyns, but left in a minority by six other judges who were of a contrary opinion. In October 1676, he was removed from his place for some political reason not stated, but probably for the mere purpose of giving his seat to Scroggs whom the minister Lord Danby favoured. His dismissal was evidently not caused by any reflection on his character, for he was replaced in less than three years, when Danby's influence had ceased. In the interval he again entered parliament, being chosen in March, 1679, by his old constituents at Boston, while his nephew, Sir William, was selected for Grantham. These elections may have been the cause of his being recalled to the bench on the 1st of the next May, when he was also allowed to resume his former precedency. In less than two years he died at his chambers in Serjeant's Inn, Fleet Street, on Dec. 3, 1680. Sir Thomas Raymond, in recording the event, makes no other remark than calling him "grandævus senectute," though only seventy-one. He left no issue, his nephew, Sir William Ellis, the second baronet, inheriting his estate.[1]

FINCH, HENEAGE, Lord Finch of Daventry, Earl of Nottingham.

Lord Keeper, 1673. Lord Chanc. 1675.

Whatever discredit the family of Finch sustained from the equivocal character of John, Lord Finch of Fordwich, the lord keeper to Charles I., was amply redeemed in the person of his relative, the Earl of Nottingham, by the admi-

[1] Sir T. Raymond, 217, 251, 407; State Trials, vi. 1070.

ration and respect he commanded among his contemporaries, and the reverence with which his name is ever mentioned in the present day. In treating of Lord Finch, the extensive connection with the law of the descendants of his grandfather, Sir Thomas Finch, has been already adverted to (vol. vi. p. 310). Another grandson, the fourth son of Sir Moyle Finch, bart., was Heneage Finch, recorder of London, who by the marriage with his first wife, Frances, daughter of Sir Edmund Bell, of Beaufré Hall, Norfolk (a descendant of the lord chief baron in the reign of Elizabeth), became the father of Heneage, Earl of Nottingham, the subject of the present sketch.

Heneage Finch was born on December 23, 1621, probably at Eastwell in Kent; and, after passing through his curriculum at Westminster school, was admitted as a gentleman commoner at Christ Church, Oxford, in Lent term, 1635, four years after his father's death. Anthony Wood records no degree that he took, although he remained at the university till he became a member of the Inner Temple on November 25, 1638. Any advantage that he might derive from his relationship with John, Lord Finch, who was then chief justice of the Common Pleas, was materially diminished by the flight of that nobleman two years afterwards. His call to the bar, therefore, on January 30, 1645, before the termination of the usual seven years' probation, may be considered as a proof of his studious habits, and his proficiency in legal knowledge. He must have soon obtained good practice in the courts, as his name frequently occurs in Siderfin's reports during the Commonwealth, as a leader in abstruse cases in the upper Bench.[1] That he was no friend to the republican

[1] 2 Siderfin, from pp. 13 to 177. In one case, p. 152, he appears to be called a serjeant; but this is the printer's error, in omitting the comma after that title which applies to Twisden, who is named before. A similar error occurs in part i., p. 74, when Serjeant Maynard and Finch (then solicitor-general) are mentioned together, in Easter, 14 Car. II.

party, may be inferred from his being selected for a prominent office immediately on the Restoration; and it was no doubt from the reputation of his loyalty that he was employed before the Protector Richard's parliament in February, 1659, for Mr. Street, who had been returned for Worcester, and was petitioned against as having borne arms as a cavalier. On this occasion we have the first reference to the eloquence for which he has been so famed, the opposing counsel acknowledging that he had done the part "not only of an advocate, but of an exquisite orator."[1] From his persuasive powers, he acquired the titles of "the silver-tongued lawyer," and "the English Cicero," and from his graceful action that of "the English Roscius." Evelyn speaks (ii. 226) of his pleading "most eloquently for the merchants trading to the Canaries;" and the gossiping Pepys (ii. 123, iv. 157) is in ecstasies when attending the court, exclaiming, "so pleasant a thing is it to hear him plead." Even the prejudiced Burnet (ii. 37) is obliged to concur, though he qualifies his praise by the depreciating remark that his eloquence was "laboured and affected," and that "he saw it as much despised before he died."

Recommended at once by his eminence as a lawyer and his loyalty to the king, and perhaps more than either by the charms of his oratory, it is not surprising that he was returned to the Convention Parliament of April 1660, by two constituencies, those of St. Michael's in Cornwall and of the city of Canterbury. The Mercurius Politicus in announcing his election for the latter place (for which he took his seat), calls him "a person whose learning in the law and eloquence at the bar is not sufficiently to be commended." He was actively employed in all the steps adopted by the house to facilitate the king's return. A week after that event he was appointed solicitor-general and knighted; and

[1] Burton's Parliamentary Diary, iii. 423–34.

on the following day was rewarded with a baronetcy. In the discussions on the bill of indemnity we find him saving Philip Jones, who was proposed to be excepted from it; and in the debates on religion, he stood up strenuously for the established church. The trials of the Regicides were conducted wholly by him, the attorney-general taking no part in them, and the whole proceedings were carried on with exemplary fairness and judgment. When the parliament met after the recess, he brought in the bill for keeping the fast of king Charles's martyrdom, which, after an observance of two centuries, has been lately discontinued: and in a debate with reference to the attempted exaction of 150*l.* by the serjeant-at-arms for fees against Milton, he is reported to have said "Milton was Latin secretary to Cromwell, and deserved hanging;" a sentiment which shocks our modern ears, and which has been accordingly stigmatised by over-nice critics, without making due allowance for the frantic loyalty of the time, and without remembering that little was then known of the great bard, beyond his republican writings; his Comus, the Allegro, and the Penseroso, and other minor poems, having had a very limited circulation.

A new parliament met in May, 1661, in which Sir Heneage had the additional honour of representing the University of Cambridge. Later in the year he became treasurer of his Inn of Court, and was also selected as autumn reader. He took for his subject the statute of 39 Eliz., concerning "The payment and recovery of the debts of the crown:" and had the expensive satisfaction of reviving the splendid festivities which had been so long discontinued. On the last day of the feast he had the honour of entertaining the king, who condescended to be present, though none of his predecessors had ever graced a reader's inauguration. Even a serjeants' feast had not been so distinguished since 1531, when Henry VIII. and Queen

Catherine dined at Ely House. Sir Heneage resided at this time, and till his death, at Kensington, in the mansion which afterwards became the palace; his son, the second earl, having sold it to King William. Pepys was delighted with its gardens and its fountains, and in his quaint way says, "a mighty fine cool place it is, with a great laver of water in the middle."

No other incident varied his professional career till November 7, 1665, when he received the degree of doctor of law from his university on presenting the thanks of the House of Commons to the members of convocation for the reasons they had given concerning the solemn league and covenant, &c. Anthony Wood tells us that the public orator on that occasion made a sly allusion to their member's not assisting them in getting rid of the tax upon hearths—observing that "the University wished they had more colleges to entertain the parliament-men, and more chambers, but by no means no more chimneys:" at which, he adds, Sir Heneage changed countenance and drew back. The disastrous fire of London, which occurred the next year, extending its ravages to the east of the Temple, was followed by a conflagration in the Temple itself, destroying among other buildings the old cloister walks. It becoming a question with the benchers of the two houses, whether they should be rebuilt, or the ground covered with new chambers, the latter proposition was firmly opposed by Finch (then lord chancellor), who pressed the advantage derived by the students in putting cases in their evening walks in the cloisters. Whereupon an arrangement was suggested by Sir Christopher Wren which was satisfactory to both parties, and the cloisters were erected in their present form with chambers over them. Finch was ever an advocate for the students discussing among themselves the subjects they were reading, and used to say that they should study all the morning, and talk all the afternoon.

At the trial of Lord Morley for murder, Sir Heneage summed up the evidence in an eloquent and impressive speech, which is fully reported in the State Trials (vol. vi. p. 778). Lord Clarendon then acted as high steward, and in the following year was himself the subject of prosecution. During its progress, Sir Heneage, as far as we can judge from the published reports, showed his disapproval of the proceedings, and did what he legally could in behalf of the fallen statesman.[1] On May 10, 1670, on the death of Sir Geoffrey Palmer, he succeeded to the office of attorney-general, which he held for three years and a half. The removal of Lord Shaftesbury from the chancellorship then took place, and the Great Seal was on November 9, 1673, placed in his hands, where it remained till his death, a period of nine years. Two months after his advancement he was raised to the peerage as Baron Finch of Daventry. For two years he was distinguished by the title of lord keeper only, but at the end of that time, on December 19, 1675, he was constituted lord high chancellor; and on May 12, 1681, he was further honoured with the earldom of Nottingham. While he held the Seal, he presided as lord steward on three occasions; in 1678, on the trials of Earl of Pembroke and of Lord Cornwallis, both for murder, and in 1680, on that of Viscount Stafford, impeached for complicity in the Popish Plot. In pronouncing sentence on that unfortunate nobleman, he shows his belief in the existence of the plot "beyond all possibility of doubting," and even carries it back so far as the Fire of London, exclaiming "Does any man now doubt how London came to be burnt?" He, however, according to Roger North, discredited the witnesses brought forward to support it, and pointed out the inconsistencies of their evidence.[2] The party who promoted the prosecutions for the

[1] Parl. Hist., iv. 375, *et seq.*

[2] State Trials, vi. 1310; vii. 143, 1294; North's Examen, 208.

purpose of excluding the Duke of York, at last lost their influence with the people, and the chancellor before he died had the satisfaction of witnessing the restoration of loyalty in numerous dutiful addresses to the king.

Towards the close of the chancellor's life he suffered greatly from the gout, and was in other respects so much afflicted, that he often sat to hear causes when in great pain and more fit to keep his room. Frequently unable to perform his duties in the House of Lords, his place as speaker was supplied by Chief Justice North, with whom, as his biographer relates, he preserved a cordial friendship. He died at the age of sixty-one at his house in Great Queen Street, Lincoln's Inn Fields, on December 18, 1682, and was buried in the church of Ravenstone in Bucks, where he had a seat; his son placing a splendid monument to his memory over his remains.

In the various steps of his career, while party animosities were most violent and the whole kingdom was divided into factions, he carried himself with so much wisdom and steadiness, modesty, and forbearance, that he appeared to be of no faction himself; and not only retained the good opinion of his sovereign, but escaped even the assaults, if not the censures, from which few were exempt, of his political opponents. By his contemporaries he was universally respected; and subsequent writers, of both sides of politics, have in their estimate of his character, united in his general eulogy as a man; tempering their portrait of him as a politician, according to their Whig or Tory tendencies; the latter perhaps too gaudily coloured, and the former in deeper shadow than a due regard to the back-ground of the picture, loaded as it is with disturbing elements, would justify. A noble author of that party who takes too many opportunities of depreciation, while "damning with faint praise," though acknowledging that the chancellor took "no lead in the cabinet," endeavours

to make him responsible for the obnoxious and unconstitutional proceedings which too frequently disgraced that part of the reign. His lordship, as a man of party himself, must have often experienced the necessity of giving up individual opinion for the purpose of furthering a general object, and has no doubt himself concurred, and induced others to concur, for the sake of conformity, in measures suggested by his leaders, to which, in the depth of his heart, he saw conscientious objections.

As chancellor, Lord Nottingham is described by Blackstone (iii. 55), as "a person of the greatest abilities and most uncorrupted integrity; a thorough master and zealous defender of the laws and constitution of his country; and endued with a pervading genius, that enabled him to discover and to pursue the true spirit of justice, notwithstanding the embarrassments raised by the narrow and technical notions which then prevailed in the courts of law, and the imperfect ideas of redress which had possessed the courts of equity. The reason and necessities of mankind arising from the great change in property by the extension of trade and the abolition of military tenures, cooperated in establishing his plan, and enabled him in the course of nine years to build a system of jurisprudence and jurisdiction upon wide and rational foundations." Burnet (ii. 67), calls him "a man of probity, and well versed in the laws . . . . an incorrupt judge, and in his court he could resist the strongest applications even from the king himself, though he did it no where else:" forgetting his refusal to affix the Great Seal to Lord Danby's pardon, and the remark of the king on returning it after he had himself used it for the purpose, "Take it back, my lord, I know not where to bestow it better." Burnet adds, "one thing deserves to be remembered of him; he took great care of filling the church livings that belonged to the Seal with worthy men; and he obliged them all to residence." In the disposal

of his ecclesiastical patronage he was so particular that, not thinking himself a judge of the merits of the suitors for it, he charged it upon the conscience of his chaplain (Dr. Sharp, afterwards Archbishop of York) to make the closest enquiry and give the best advice, so that he might never bestow any preferment upon an undeserving man.

Tate, in the second part that he added to Dryden's "Absalom and Achitophel," thus describes him under the character of Amri:

> "Our list of nobles next let Amri grace,
> Whose merits claim'd the Abethdin's high place;
> Who, with a loyalty that did excel,
> Brought all th' endowments of Achitophel.
> Sincere was Amri, and not only knew,
> But Israel's sanctions into practice drew;
> Our laws, that did a boundless ocean seem,
> Were coasted all, and fathom'd all by him.
> No rabbin speaks, like him, with mystic sense,
> So just, and with such charms of eloquence;
> To whom the double blessing does belong,
> With Moses' inspiration, Aaron's tongue."

The Duke of Wharton in the "North Briton," No 69, speaks of him in terms equally eulogistic; relating, as an instance of his anxiety to remove the common imputation of delay in his court, that, on being informed that a cause was thirty years old, he instantly fixed a day for its being heard, and declared that he would rather sit for five or six days together to decide it than suffer such a disgrace to continue. Indeed, the evidence of all writers in and about his time is confirmatory of the high character as a judge which he deserved and bore; except the sneering observations with which Roger North (p. 198), too jealous of his brother's reputation, has chosen to describe him. "During his time," says the biographer, "the business, I cannot say the justice, of the court flourished exceedingly. For he was a formalist, and took pleasure in hearing and deciding; and gave

way to all kinds of motions the counsel would offer: supposing that, if he split the hair, and with his gold scales determined reasonably on one side of the motion, justice was nicely done. Not imagining what torment the people endured, who were drawn from the law, and there tossed in a blanket." Which of these testimonies is more worthy of credit may be estimated by the reputation which has ever since been attached to his name, by the frequent references to his decisions as authority, and by the veneration with which he is still regarded by those who practice in Westminster Hall; where his common appellation is "The Father of Equity." As a law reformer too he must hold the highest place, since to him we owe the most important and most useful Act of the reign,—the "Statute of Frauds."[1]

He has been unfortunate in the contemporary reporters of his decisions, of whom there were three, namely, William Nelson, an anonymous author, and Sir Anthony Keck, the lord commissioner of the Great Seal under William III; none of whose publications are satisfactory or of much reputation. A few cases may be met with occasionally in other writers; and Lord Nottingham left a folio volume in manuscript of all the judgments he pronounced, some of the most important of which have been given to the world by Mr. Swanston, the learned editor of our own time. While attorney-general he superintended the edition of Sir Henry Hobart's Reports (1671). The other publications in his name are principally his speeches, and legal arguments.

In his private life there is not one story told to his discredit, ready as that profligate age was to feed malice and deal in scandal. He kept up the dignity of his office with liberality and splendour; and was so far from being tainted with avarice that he gave up 4000*l.* a year out of his official allowances. He patronised largely learning and learned men. In the language of Bishop Warburton "he

[1] Lord Campbell's Chancellors, iii. 418; quoting 3 Swanston, 664.

took into his notice and continued long in his protection every great name in letters and religion, from Cudworth to Prideaux;" and Burnet, though disparaging him, is obliged to acknowledge his effectual assistance, both literary and pecuniary.[1] Among his numerous charities he largely augmented the vicarage of Ravenstone, and erected a hospital there for twelve inmates with an adequate endowment.

He married early in life Elizabeth, daughter of Mr. William Harvey, who died seven years before him, having produced him fourteen children. His eldest son, Daniel, rendered himself eminently conspicuous during the next five reigns, in the last of which and just before his death he succeeded to a second earldom, that of Winchilsea, a title given to his great-grandmother, the widow of Sir Moyle Finch; and in his descendants the double earldom of Winchilsea and Nottingham still survives.

The chancellor's second son, Heneage, also an eminent lawyer and solicitor-general before his father's death till he was removed by James II., greatly distinguished himself by his strenuous advocacy in the cause of the Seven Bishops. He received no office or other reward from King William, but when Queen Anne came to the throne he was raised to the peerage as Lord Guernsey, to which the earldom of Aylesford was added by George I., and has been enjoyed ever since by his descendants in regular succession.[2]

FOSTER, ROBERT.

JUST. C. P. 1660. CH. K. B. 1660.

See under the Reign of Charles I.

ROBERT, the youngest son of Sir Thomas Foster, the judge of the Common Pleas in the reign of James I., was

[1] Lord Campbell, iii. 420; Burnet's Reformation, II. iv.

[2] Collins' Peerage, iii. 387; Wood's Athenæ Oxon. iv. 66; Welsby's Lives, 51.

born about the year 1589. Destined for his father's profession he was admitted a member of the Inner Temple in 1604, was called to the bar in January 1610, two years before his father's death, and in autumn 1631 attained the post of reader. In May 1636 he was one of the ten who were created serjeants, and on January 27, 1640, was promoted to the bench, succeeding Sir George Vernon as a judge of the Common Pleas, and receiving the usual honour of knighthood. He joined the king on his retiring to Oxford; and that university conferred on him the degree of Doctor of Laws on January 31, 1643. Upon the execution of Captain Turpin in 1644, the House of Commons ordered the judges who had condemned him to be impeached of high treason; and proceedings were taken against Serjeant Glanville, who was in their power; but against the two chief justices and Justice Foster, who were also concerned in the trial, no further measures were adopted. The steady adherence of the latter to the royal cause however was not likely to go unpunished. An ordinance was accordingly passed on November 24, 1645, disabling him and four of his colleagues from being judges, "as though they were dead;" and he was obliged to purchase his peace by compounding for his estate.[1]

On the restoration of Charles II. he was immediately restored to his seat in the Common Pleas, and within five months was advanced to the chief-justiceship of the King's Bench; his patent for the former being dated May 31, and for the latter October 21, 1660. During the three years that he presided in the court he was much engaged in the trials of the Fifth-Monarchy men and other conspirators against the state, and also of the Quakers Crook, Grey and Bolton, for refusing to take the oaths of allegiance and supremacy. It would have been well if he had confined

[1] Wood's Fasti, ii. 44; Rymer, xx. 20, 380; Whitelocke, 96, 181.

himself to these judicial duties, but his memory is tarnished by his conduct in Sir Harry Vane's case. When the prisoner was convicted, and both houses of parliament had petitioned for his life, which the king had promised, the chief justice is reported to have urged his execution, saying "God intended his mercy only for the penitent."

Sir Robert's death occurred on October 4, 1663, while on circuit; and his remains were deposited under a handsome monument in the church of Egham, in which parish his family residence was situate, still called Great Foster House and now used as a receptacle for lunatics. He left a son, Thomas, who was afterwards knighted,[1].

GREGORY, WILLIAM.

B. E. 1679.

See under the reigns of James II. and William III.

GRIMSTON, HARBOTTLE.

M. R. 1660.

THE parish of Grimston in Yorkshire, gave its name to Sylvester, the standard-bearer of the Conqueror in the invasion of England; that and various other manors in the East Riding being the reward for his services. The family long flourished in that county, but in the fifteenth century the second son of one of the elder branches established himself in Suffolk, whose descendant, Sir Edward, was Comptroller of Calais, and was taken prisoner when the English lost it in 1558. On his escape from his captors he settled himself at Bradfield in Essex, and he and his son and grandson were frequently in parliament in the reigns of Elizabeth, James I., and Charles I. The grandson, Sir Harbottle Grimston (so named from his maternal grandmother), who was created a baronet in 1612, married Elizabeth, daughter

[1] 1 Siderfin, 2, 153; State Trials, vi. 188; Wotton's Baronet. ii. 310.

of Ralph Coppinger, Esq., of Stoke in Kent, and was the father of five sons. Edward, the eldest, dying during his father's lifetime, the second son, Harbottle, the subject of the present sketch, became his heir.

He was born at Bradfield Hall, and was at first intended for the law and entered at Lincoln's Inn. But upon his brother's death he abandoned the study, till, forming an attachment to the daughter of Sir George Croke, the judge refused to bestow her hand upon him unless he resumed his profession. He reopened his law-books with all the ardour of a lover, and soon attained sufficient legal knowledge not only to satisfy Sir George, but also to obtain the post of recorder of Colchester, to which he was elected in 1638; being also returned member for that town to the parliament of April, 1640, and again to the Long Parliament in the ensuing November.

Between the two parliaments his father died, and he succeeded to the title. In both of them he was one of the most violent opposers to the encroachments of the court, and a powerful advocate for the liberties of the people; being no doubt instigated in the course which he took by the imprisonment suffered by his father for refusing to pay the loan-money. He was not very choice in the language with which he assailed those whose conduct he deemed illegal; saying in his speech against the advisers of ship-money (his father-in-law's judgment being present to his mind), that "he was persuaded that they who gave their opinions for the legality of it, did it against the dictamen of their own conscience;" and calling Secretary Windebank "the very pander and broker to the whore of Babylon." A prominent member on all committees for the redress of grievances, for bringing the obnoxious ministers to justice, and for vindicating the privileges of parliament, and contributing two horses and twenty pounds in 1642 for its defence, he was

looked upon as one of the most active among the popular party; yet in 1643 he refused to subscribe the solemn league and covenant, and discontinued sitting in the house till it was laid aside. He then joined with Hollis and the Presbyterian party against the Independents, and Cromwell in particular. He was one of the commissioners selected to treat with the king in the Isle of Wight[1], when, though the negotiation was unsuccessful, his majesty was well pleased with his conduct; and on his return he urged upon the house the acceptance of the king's concessions. He then began to see the real object of the dominant faction, and not consenting to their determination to get rid of the monarchy, was with other members who coincided in his opinion excluded the House. His influence with the army and the people was considered so great, that he was put into confinement before the king's trial; but was discharged by an order from Lord Fairfax on the very day of the execution, first entering into an engagement not to act nor to do anything to the disservice of the parliament or the army.

Burnet (i. 45) relates a story which, if true, was very likely to have been the real cause of his detention. "When the House of Commons and the army were quarrelling, it was proposed at a meeting of the officers to purge the army better, that they might know whom to depend upon." Cromwell upon that said, 'he was sure of the army; but there was another body that had more need of purging, namely the House of Commons.' This being reported to Grimston, he charged Cromwell with the design of putting a force on the House. He had his witnesses at the door (two officers, who were present), and desired they might be examined; they were brought to the bar, and justified all that they had said to him, and gave a full relation of all that had passed at their meetings. When they withdrew, Crom-

[1] Notes and Queries, 1st Series, xii. 358; Whitelocke, 334.

well fell down on his knees, and made a solemn prayer to God, attesting his innocence, and his zeal for the service of the House; he submitted himself to the providence of God, who it seems thought fit to exercise him with calumny and slander, but he committed his cause to him. This he said with vehemence, and with many tears." The charge was allowed to drop; but his subsequent forcible dissolution of the parliament proved its truth; and at all events made it a matter of prudence that Grimston should retire to the continent. At the same time he resigned the recordership of Colchester.

Returning to England in a few years he was elected in Cromwell's new modelled parliament in 1656 as one of the sixteen members for Essex; but declining to sign the engagement recognising Cromwell's government, he was refused admittance to the House. He afterwards joined in the remonstrance of the secluded members, which protested against the assembly as not being the representative body of England: but no notice being taken of it, he quietly retired to the practice of his profession until more promising times. In December 1659 the Long Parliament was restored to its functions, and having dissolved itself in the following March, Sir Harbottle was appointed one of the council of state. Of the Convention Parliament, summoned on April 25, he was elected speaker, and when Sir John Grenville came on May 3 to receive the thanks of the house and the compliment of 500*l.*, for bringing the king's letter, he delivered a speech, of which the following extract will serve at once to exhibit the style of his oratory, and the excessive joy exhibited by the people. "I need not tell you," he said, "with what grateful and thankful hearts, the Commons now assembled in parliament have received his majesty's gracious letter, *Res ipsa loquitur*: you yourself have been *auricularis et ocularis testis de rei veritate.* Our

bells and our bonfires have already begun the proclamation of his majesty's goodness and of our joys. We have told the people that our king, the glory of England, is coming home again, and they have resounded it back again in our ears, that they are ready, and their hearts are open to receive him: both parliament and people have cried aloud in their prayers to the King of kings, Long live King Charles the Second." In the addresses which he made to the king after his return, the fulsome style of his predecessors in the chair was revived, and even exceeded, with the addition of absurd reiterations. He called the actors in the rebellion, "the monsters who had been guilty of blood, precious blood, precious royal blood;" and in his speech, previous to the dissolution, he exclaimed, "we must needs be a happy parliament, a healing parliament, a reconciling and peaceful parliament, a parliament *propter excellentium*, that may truly be called *parliamentissimum parliamentum*." [1]

He had the honour of entertaining the king on June 25, 1660, at his house in Lincoln's Inn Fields; and soon received a more substantial proof of the royal gratitude in the appointment of master of the Rolls, which was given him on November 3: though it was said that he gave Lord Clarendon 8000*l.* for the place.[2] He was then sixty-six years of age, and he held the office till his death, a period of twenty-three years. The parliament continued to sit for nearly two months after the date of his patent, he remaining speaker till its dissolution on December 24. One of his decrees nearly cost him his life. Nathaniel Bacon, of Gray's Inn, against whom it was pronounced, offered a man 100*l.* to kill him; and upon being convicted of the crime in 1664, was condemned to pay a fine of 1000 marks, to be imprisoned three months, and be of good behaviour for life, and to

[1] Whitelocke, 653; Parl. Hist. iv. 27, 113, 168.

[2] Chief Just. Lee's Memorabilia, in Law Magazine, xxxviii. 217.

acknowledge his offence at the bar of the Chancery. An entry in the Treasury Minute Book of 1667 states that Bacon was discharged as insolvent.[1]

Sir Harbottle was also made chief steward of St. Alban's, where he had purchased the manor of Gorhambury and other property, and recorder of Harwich. His judicial position did not prevent his sitting in parliament, in which he continued to be one of the representatives of the borough of Colchester till his death. He at last grew out of favour with the court, from his known dislike to the Roman Catholic religion, which he made no attempt to conceal. When a bill was introduced in 1667 for changing the punishment of Romish priests and Jesuits from death to imprisonment for life, he indignantly asked, "Is this the way to prevent popery? We may as soon make a good fan out of a pig's tail, as a good bill out of this:" He asserted the right of the House of Commons to choose their own speaker, when the king rejected Mr. Seymour in 1679; and at the close of his life he was compelled to dismiss Burnet, the preacher at the Rolls, for a sermon on the 5th of November, which was interpreted as levelled against the king's conduct.[2]

He died on January 2, 1685[3], of natural decay, being then above eighty years of age, and was buried in St. Michael's Church, St. Alban's. Sir Henry Chauncy, his contemporary, thus describes him: "He had a nimble fancy, a quick apprehension, a rare memory, an eloquent tongue, and a sound judgment. He was a person of free access, sociable in company, sincere to his friends, hospitable in his house, charitable to the poor, and an excellent master to his servants." He published the reports of his father-in-law Sir George Croke, having first translated them into English;

[1] 1 Siderfin, 230; 7 Report Pub. Rec. App. ii. 72.
[2] Townsend's Ho. of Commons, i. 26; Parl. Hist. iv. 1096; Burnet, i. 596.
[3] Luttrell's Diary, i. 384; 1 Vernon, 284.

and is said to have greatly assisted Burnet in his History of the Reformation.

By his first wife, Mary, Sir G. Croke's daughter, he had six sons and two daughters; by his second, Annie daughter of Sir Nathaniel Bacon, niece to Lord Bacon, and widow of Sir Thomas Meautys, he left no children. All his sons died in his lifetime, except Samuel, who succeeded as third baronet; on whose decease in 1700 the title became extinct. The estate of Gorhambury with large landed property he left to his great nephew William Lukyn the second son of Sir William Lukyn of Missing Hall, baronet, whose father Sir Capel Lukyn had married Mary the eldest daughter of the first Sir Harbottle. This William, who eventually succeeded to the baronetcy of Lukyn, assumed the name of Grimston, and in 1719 was created a peer of Ireland by the title of Baron of Dunboyne and Viscount Grimston. His grandson was created Baron Verulam in England in 1790, a title which was converted into an earldom in 1815.[1]

GUILFORD, LORD. *See* F. NORTH.

HALE, MATTHEW.

CH. B. E. 1660. CH. K. B. 1671.

See under the Interregnum.

THIS eminent judge, whom all look up to as one of the brightest luminaries of the law, as well for the soundness of his learning as for the excellence of his life, descended from an old and respectable family in Gloucestershire. His grandfather Robert Hale, who was a wealthy clothier at Wootton-under-Edge, had five sons, for all of whom he handsomely provided. The second of them, also Robert, who was a barrister of Lincoln's Inn, by his wife, Joan,

[1] A. Croke's General Hist. of Croke Family, 606–13; Burnet; Chauncy's Herts. 465; Collins' Peerage, viii. 214.

daughter of Matthew Poyntz, Esq., of Alderley, became the father of an only son, the future judge, who was left an orphan five years after his birth.

Matthew Hale[1] was born at Alderley on November 1, 1609. On his father's death he was placed under the guardianship of his kinsman Anthony Kingscot, Esq., who first sent him to a puritanical grammar school at Wootton-under-Edge, and then to the University of Oxford, intending him for the clerical profession. He was admitted a commoner at Magdalen Hall under the tuition of Obadiah Sedgwick in Michaelmas 1626, but did not stay long enough to take a degree. Like most young men he was attracted by the pleasures incident to his age; he was fond of plays, dress, and company, was expert in athletic exercises, and skilful in the use of martial weapons. It is related of him that one of his masters, who was his tenant, having told him that he was better at his own trade than himself, Hale, proud of the praise, promised him the house he lived in if he could hit him a blow on the head. The master of course succeeded in doing so, and gained possession of the house, while Hale received an early lesson how to estimate a flattering tongue. He soon discarded the idea of becoming a divine, and determined on a soldier's life, an inclination which he would probably have followed, had not a family lawsuit taken him up to London to consult Serjeant Glanville. That learned man soon observed his superior judgment and peculiar fitness for the study of the law; and advising him to adopt it as his profession, Hale entered himself at Lincoln's Inn on September 8, 1628, and was called to the bar on May 17, 1636.

During this interval he forsook all his former vanities,

[1] This sketch is founded, except when otherwise stated, on the memoirs of the judge by Bishop Burnet, Dr. Williams, and Anthony Wood. Most of the other biographers follow in their footsteps.

which had never been tainted with any vice or immorality, and devoted himself wholly to the improvement of his life and the study of his profession. He himself states that for the first two years his application extended to sixteen hours a day, which nearly bringing him to his grave he was obliged to reduce to eight hours; and acknowledged that he thought six hours, well used, were sufficient.[1] At the same time he paid strict attention to his religious duties, never once missing attendance at church on Sunday for six-and-thirty years. His dress became so coarse and plain from this time forward, that even Rich and Baxter, who only knew him in the last years of his life, felt obliged to hint to him that it was too homely for his position. As a diversion from his abtruser studies he made himself a proficient in mathematics and various branches of philosophy, and acquired considerable skill in medical and anatomical knowledge; not neglecting history, both ancient and modern, nor, particularly, the varied form of theological doctrines.

Besides introducing him into many desirable friendships, as with Attorney-General Noy, who took so much interest in his studies, that he was called "Young Noy;" Selden, who appointed him his executor; Vaughan, afterwards chief justice; and Archbishop Usher;—his deep learning and known industry soon ensured him good practice at the bar. Croke reports his arguments as early as 1641: and his name is also to be found in Styles and Aleyn. He was entirely a loyalist, though he religiously and upon principle avoided taking any part in the dissensions of the times. Burnet says he was assigned counsel for the Earl of Strafford, but the report in the State Trials does not mention him as one that appeared. In 1643 he was engaged for Archbishop Laud, and is said to have composed the speech in defence which was spoken by Mr. Herne. In 1647 he

[1] Seward's Anecdotes, iv. 416.

was one of the counsel appointed to defend the eleven members, and he also appeared for Lord Macguire at his trial in the King's Bench for high treason.[1] According to the statement of Burnet he offered to plead for the king on his trial; and Serjeant Runnington suggests that he furnished his royal client with the line of defence which he actually adopted [2], in denying the jurisdiction of the court, which of course precluded the appearance of any counsel. In the subsequent trials of the Duke of Hamilton, the Earl of Holland, Lord Capel, and others for high treason against the parliament, he was employed in their defence, and his arguments were urged with so much boldness and energy that the attorney-general threatened him for appearing against the government. Hale indignantly retorted that he was "pleading in defence of the laws, which they professed they would maintain and preserve; and that he was doing his duty to his client, and was not to be daunted with threatenings."

Notwithstanding his monarchical principles, of which these employments show a general acknowledgment, he deemed it his duty to acquiesce in the existing government, and not to engage in any faction. He therefore, without approving its measures, subscribed the engagement to be true and faithful to the Commonwealth; and was accordingly permitted to appear before the High Court of Justice in 1651 to take exceptions to the charge against the Presbyterian Christopher Love—a privilege refused to Mr. Archer and Mr. Waller, because they had not complied with that formality.[3] Though thus acting against them the parliament showed their estimation of his legal knowledge by placing Hale in the next year at the head of the Committee

[1] State Trials, iv. 577, 702; Whitelocke's Mem. 258.
[2] Life, in Runnington's edit. of Hale's Common Law. 1779.
[3] State Trials, v. 211.

for the prevention of the delays and expenses of law proceedings.[1]

When Cromwell assumed absolute power Hale was one of the many who were disgusted at his usurpation. The Protector, however, who was no doubt sincere in his wish to strengthen his government by having men of known ability and honesty on the bench, and seeing what influence Hale exercised by his learning and his courage, resolved to employ him as one of the judges. Hale naturally hesitated to accept the proffered office, but on the representation that he would not be required to acknowledge the usurper's authority, and at the urgent solicitation of Sir Orlando Bridgeman and Sir Geoffrey Palmer and other loyalists, backed by the opinion of his clerical friends, he determined to accept the appointment, upon the conviction that it was absolutely necessary that under all governments property should be secured, and justice impartially administered.

Accordingly, on January 25, 1654, having been created a serjeant for the purpose, he was made a judge of the Common Pleas, in which character he is mentioned in Whitelocke's Swedish Embassy, ii. 195, in the following April. He altogether refused to try offenders against the state, not recognising the present authorities; and uninfluenced by them boldly and conscientiously administered justice between man and man, regardless of the party to which either was attached. He convicted and hung one of Cromwell's soldiers for a foul murder of a king's man; and he dismissed a jury because he discovered that it had been returned by Cromwell's order and not by the sheriff. The Protector on his return from the circuit told him "he was not fit to be a judge;" to which he simply answered "That it was very true." However angry and dissatisfied Cromwell might be, he could not afford to dismiss so popular a man;

[1] Whitelocke's Mem. 520.

and was obliged, perhaps was glad, to pass over his refusal in 1655 to assist at the trial of Colonel Penruddock at Exeter. Hale therefore was continued on the bench; but upon the death of Cromwell in September 1658, not even the importunities of his friends and brother judges could induce him to accept a new commission from the Protector Richard.

In the July (1654) after he became a judge, which did not then disqualify him for a seat in parliament, Hale was returned for his native county. "His object," says Burnet, was "more to hinder mischief than to do much good." This parliament met in September, and its first business was the consideration of the system of government to be adopted. Violent discussions followed, till Mr. Justice Hale proposed an expedient that seemed reasonable to the majority. It was to the effect, "that the single person in possession should exercise the supreme magistracy with such powers, limitations, and qualifications, as the parliament should afterwards declare." But the Protector, fearing lest his power should thus be gradually taken from him, shut up the house, and inflicting a long speech upon the members, would not readmit them, till each had subscribed an unconditional recognition of his authority. Many refused to sign, and among them most probably was Hale, as his name does not subsequently appear either as a speaker or as a member of any of the committees. He was not elected to the only other parliament called by Cromwell, in 1656; but in that summoned by Protector Richard in January, and dissolved in April 1659, he was chosen for the University of Oxford; but he seems to have been silent amid the dissensions of that short session. Upon the dissolution of the Long Parliament and the election of the Convention Parliament in April 1660, Hale was again returned for Gloucestershire. In that he was most active, being selected as a manager of the con-

ference with the lords which led to the return of the king, and as one of the committee to examine the acts of government lately passed, and to report how the legal proceedings that had taken place might, notwithstanding all irregularities, be confirmed.[1] Burnet says that he attempted to bind Charles to certain conditions, by moving for a committee to look into the concessions that had been offered by the late king during the war, and to suggest such propositions as should be sent over to the king. This motion, leading to a settlement which might have prevented much future mischief, was dexterously counteracted by Monk.[2]

On the arrival of Charles, though Hale was not immediately replaced in his judicial position, he was at once confirmed in his degree of serjeant; and in that character was included in the commission for the trial of the regicides. At the termination of those doleful proceedings, he was, in spite of his declared reluctance, constituted chief baron of the Exchequer, his writ being dated November 7[3]; and so great was his desire to escape the honour of knighthood that he avoided the king's presence, until Lord Clarendon contrived an unexpected meeting with his majesty, who immediately conferred upon him the accustomed distinction. That noble lord, addressing him upon his inauguration, paid him this somewhat equivocal compliment: "that if the king could have found out an honester or fitter man for that employment, he would not have advanced him to it; he had therefore preferred him because he knew none that deserved it so well."

In every stage of his career Hale was accustomed to put into writing his reflections on the incidents of the time, and to lay down regulations for his conduct. Among many excellent rules for his guidance as a judge was one "to

[1] Burton's Diary, i. xxxii., iii. 142; Parl. Hist. iv. 24, 25.
[2] Burnet's own Time, i. 88. [3] 1 Siderfin, 3, 4.

abhor all private solicitations." Acting on this, he rebuked a noble duke who applied to him about a cause in which his grace was concerned; who complaining of his rough reception was told by the king to be "content that he was no worse used, for he believed he himself should have been used no better, if he had solicited him in any of his own causes." Another of his rules was "not to be biassed with compassion to the poor, or favour to the rich:" and so strict was he in its application that he insisted on paying for a buck that was presented to him on the circuit, before he tried a cause in which the donor was a party: and at another time, he refused to recommend a man to be restored to a place whom he had removed for his misconduct, but compensated him by a liberal donation.

Dr. Henry Sampson the contemporary diarist relates that Hale once tried a poor fellow, who being cast upon the shores of Cornwall, in the extremity of his hunger opened a window and taking a loaf began to eat it. The jury brought him in guilty of the burglary, and even after the judge argued with them that it was but to supply his hunger they at first persisted in their verdict, nor was it without much trouble that the judge induced them to acquit the lad. Some years after the judge being extravagantly entertained on the northern circuit, reproved the sheriff for setting so bad an example. "Truly, my lord," said the sheriff, "I should not have done so much for any other judge, but for your lordship I can never do too much. You saved my life." "How so?" said the judge. "I was arraigned before you," said the sheriff; "you sent out the jury again and again till they quitted me." "Are you the man," said the judge, "that was arraigned for stealing the loaf?" "The very same man," replied the sheriff; "since then a great estate is fallen to me, and I am in the post you see."[1]

[1] Gent. Mag., July 1851, p. 13.

After presiding in the Exchequer for nearly eleven years, he was promoted to the chief justiceship of the King's Bench on May 18, 1671, on the death of Sir John Kelyng. He remained in that dignified post for almost five years, when his bad health and increasing infirmities induced him to resign it on February 21, 1676, in opposition to the wishes of the king and the solicitations of his friends and colleagues. But he felt that he could not conscientiously retain a position the duties of which he was not able fully to perform, and the near approach of death made him desirous of leisure for its contemplation. That his retirement was considered a great national loss is proved by the speech made by Lord Chancellor Finch to Hale's successor Sir Richard Rainsford. "The vacancy," he said, "of the seat of the chief justice of this court, and that by a way so unusual as the resignation of him that lately held it, and this too proceeding from so deplorable a cause as the infirmity of that body which began to forsake the ablest mind that ever presided here, hath filled the kingdom with lamentations and given the king many and pensive thoughts how to supply that vacancy again." And the expressions used by both the chancellor and the new chief show the contemporary opinion of the character and qualities of the retired judge. Sir Heneage Finch speaks of him as "a chief justice of so indefatigable an industry, so invincible a patience, so exemplary an integrity, and so magnanimous a contempt of worldly things, without which no man can be truly great; and to all this, a man that was so absolutely a master of the science of the law, and even of the most abstruse and hidden parts of it, that one may truly say of his knowledge in the law, what St. Austin said of St. Hierome's knowledge in divinity,—'Quod Hieronymus nescivit, nullus mortalium unquam scivit.'" Sir Richard, in his turn, designated him as "a person in whom his eminent virtues and deep learning have long managed a

contest for superiority,—a person that has sat in this court these many years, of whose actions there I have been an eye and an ear witness; that by the greatness of his learning always charmed his audience to reverence and attention; a person to whom, I think I may boldly say, that as former times cannot shew any superior to him, so am I confident succeeding and future times will never shew any equal." These eulogies have been echoed by almost every writer during the two centuries that have elapsed since he flourished; and the more fully have been laid open to the world the principles that guided him in his judicial career, and the daily practices and habits of his private life, the more confirmed has been the admiration of his character, so that he is scarcely ever named except in terms of respect and veneration.

But the best men cannot hope wholly to escape vituperation, and the blot which cavillers have discovered in Hale's reputation has been that he presided at the trial of two women charged with witchcraft, and that, the jury having found them guilty, he left them for execution. But the censurers forget that as a judge he was bound by his oath to administer the law as it stood, without regard either to its severity or even its absurdity; that the evidence, though in these enlightened days it might be deemed puerile and unconvincing, being cumulatively circumstantial and entirely uncontradicted, fully satisfied the jury, whose verdict left the judge no choice but to pronounce the sentence enjoined by the statute; and that they might as justly condemn every judge, who, contrary to his own private feeling, has doomed a prisoner to capital punishment under an act that has been since repealed. In censuring him for his belief in witchcraft, they should remember that it was the almost universal persuasion of the time, in which he had for his associates some of the most eminent men of all ages, and which even now is

not wholly abandoned; and they should hesitate to select such a man, whose excellence in other respects they are obliged to acknowledge, for the blame that should at all events be shared by his contemporaries.

Surviving his resignation scarcely ten months, Sir Matthew died on Christmas-day, 1676. By his special direction, in accordance with his opinion that churches were for the living only, his remains were interred in the churchyard of Alderley; to which church he had presented a curious clock on his birthday three years before.[1]

A list of his numerous writings, few of which were published during his life, is given in most of the memoirs from which this sketch is compiled. Those which most will be remembered are his "History of the Pleas of the Crown;" his "Preface to Rolle's Abridgement," containing excellent advice for the guidance of young students, in whom he ever took a special interest; and his "Analysis of the Law," which formed the basis of Blackstone's "Commentaries." His philosophical and religious works eminently show his varied learning and his contemplative piety; and the MSS. which he bequeathed to Lincoln's Inn library afford abundant testimony of his unwearied industry in collecting and transcribing the valuable records of the kingdom.

Of his two wives he had issue by the first only. She was Anne, daughter of Sir Henry Moore, of Fawley in Berkshire, and grandchild of Sir Francis Moore, the famous serjeant at law in the reign of James I. Two only of their ten children survived the judge. Late in life he married secondly, Anne, daughter of Joseph Bishop of Fawley, described by Baxter as "a woman of no estate but suitable to his disposition, to be to him as a nurse." She survived him for many years, and is spoken of in his will in the most

[1] Notes and Queries, 1st series, ix. 270.

affectionate terms. The male line of his family has been long extinct, but there are several descendants through the emale branches, one of whom still resides at Alderley.

HERBERT, EDWARD.

LORD KEEPER, 1653.

ALTHOUGH Sir Edward Herbert's tenure of the office of lord keeper of the Great Seal occurred during the time of the Protectorate, his nomination to it by Charles II. will be introduced more appropriately in this place, as the appointment was in no way recognised, nor even noticed, by Cromwell's government, and his exercise of it both began and terminated while the king was abroad.

He was the first cousin of the famous Lord Herbert of Cherbury, being the son of Charles Herbert of Aston in the county of Montgomery, third brother to the father of his lordship. Admitted to the society of the Inner Temple on February 11, 1610, and called to the bar on April 16, 1618, he reached the dignity of bencher on August 28, 1634, and of reader in autumn 1637, and was two years after elected treasurer of his inn. He had before this time acquired a seat in parliament; his name appearing in that of 1626 as one of the managers of the impeachment of the Duke of Buckingham, and as making the report from the committee, which produced a reprimand from the House to the University of Cambridge for electing as their chancellor a person publicly charged with high crimes and misdemeanours.[1] He was not in the next parliament of 1628; but after its dissolution he was one of the counsel employed by Selden in the prosecution against him.[2] His opposition to the court did not last long, for in 1633 he was selected by the Inner Temple as a manager of the famous masque

[1] Whitelocke, 6; Parl. Hist. iii. 719.

[2] Cal. State Papers, 1628 9, 556.

designed by the four Inns of Court as a compliment to the king and queen in confutation of Prynne's tirade against players in his "Histrio-Mastix."[1] In January 1635 his devotion to the court was confirmed by his appointment as attorney-general to the queen; and in 1637 he was employed on the part of the crown in the prosecution of Burton, Bastwick, and Prynne.[2] Having been soon after knighted, his next step was to the solicitor-generalship, which he obtained on January 25, 1640; and in that character he sat in the parliament of the following April, being elected member for New Sarum. For this borough he was also returned in the Long Parliament, which commenced its memorable sittings in November of that year. He continued a member till January 29, 1641, when, on his being created attorney-general and thereby becoming an assistant to the House of Lords, and consequently, according to the practice of the time, incapacitated from sitting in the Commons, a new burgess was chosen in his room.[3] This removal from a scene of daily contention was peculiarly acceptable to him, for, according to Clarendon, he was "awed and terrified" with the temper of the Commons, and glad to be "out of the fire."

He shortly however found that he had no cause of congratulation in the change, for he soon became himself a victim of parliamentary indignation. On January 3, 1642, he, by the king's command, brought an accusation in the House of Lords against Lord Kimbolton and five members of the Commons for high treason; and the king on the next day committed the imprudence of going to the latter house and demanding their arrest. The Commons highly resenting this proceeding, voted it a breach of privilege, and impeached Herbert for exhibiting the articles. Sir Edward put in his

[1] Whitelocke, 19.
[2] State Trials, iii. 719.
[3] Rymer, xix. 606; xx. 380, 448; Parl. Hist. ii. 562, 623.

answer justifying himself as acting under his majesty's express personal commands, and without any advice from himself; and thereupon the trial commenced on March 8. Two of the counsel assigned for his defence were committed for contempt in refusing to plead, and the excuse of two others were allowed; all four being intimidated by the threats of the Commons. Mr. Hearne and Mr. Chute however boldly and ably exonerated the attorney-general. Yet the lords, influenced in some measure by the same fear, found him guilty of the facts, but at the same time showed their estimate of the imputed crime, by successively negativing motions that he should be punished by the loss of his office, by fine, by imprisonment in the Tower, or by mulcting him in damages to the accused members. More than a month after, their lordships, being compelled by the Commons to inflict some punishment, contented themselves with merely committing him to the Fleet during pleasure, and declaring him incapable of any other place than that of attorney-general which he held. His incarceration lasted only eighteen days, from April 23 to May 11, when Sir Edward was permitted "for his health" to go to any of his houses within a day's journey of London, but not to come to London without the order of the house. On July 4 the warden of the Fleet was ordered to bring him up, but, as was no doubt intended, he had taken the opportunity to escape and join the king at York.[1] Venturing some time after to London he seems narrowly to have escaped the clutches of the parliament, by whom an order was made on March 6, 1646, that he should be apprehended and brought to the bar.[2]

Clarendon describes him (Life, i. 212) about this time as "a man very unlike any other man; of a very good-

[1] Parl. Hist. ii. 1089, 1121, 1127, 1179; Lords' Journals, v. 177.

[2] Whitelocke, 196.

natured wit, improved by conversation with learned men, but not at all by study and industry: and then his conversation was most with men, though much superior to him in parts, who rather admired than informed him; of which his nature (though the proudest man living) made him not capable, because not desirous. His greatest faculty was, and in which he was a master, to make difficult things more intricate and perplexed; and very easy things to seem more hard than they were." The noble author gives an amusing account of certain conferences at Oxford in 1643 on the subject of the proposed proclamation for dissolving the parliament, which seems fully to justify the opinion he had formed of the attorney.

The ground that he lost with the king on that occasion he did not regain. In a letter to Mr. Secretary Nicholas dated from Newark, October 16, 1645, his majesty says: "For Mr. Atturny, tell him if the Rebelles never did but justice, or what they had lawful power to do, then his answer good, otherwais it is not worth a button; wherefor if he confesse my power lett him accept my offer, otherwais I shall know what I have to do."[1] The offer alluded to was probably that of the lord keepership, then vacant by the death of Lord Lyttelton. The result of this letter was that the Great Seal was entrusted to Sir Richard Lane on October 25, that Sir Edward Herbert was discharged from his office on November 1, and that two days after Sir Thomas Gardner was appointed attorney-general in his place.[2]

Sir Edward seems to have been reinstated in his office by King Charles; for in 1648 Clarendon speaks of him in that character, as accompanying the Prince of Wales, and as a great favourite with Prince Rupert, describing him as always interfering with his advice, and as being "of all men living most disposed to make discord and disagreement among

[1] Evelyn's Memoirs, v. 154. [2] Docquets at Oxford.

men: all his faculties being resolved into a spirit of contradicting, disputing, and wrangling upon anything that was proposed." If reliance is to be placed on the noble author's account of Sir Edward's subsequent conduct at the Hague, his intrigues and indiscretion well merit the censure;[1] but the jealousy of a rival for court favour may account for some exaggeration of the facts.

After the death of Charles I. Sir Edward is still mentioned with his official title. He attended the new king's court at the Hague, and afterwards was with the Duke of York at Paris, being one of this prince's private and confidential advisers, recommending and accompanying him on that inauspicious visit to Flanders and Holland in the following year. The regular councillors of the duke represented him "as a man of that intolerable pride that it was not possible for any man to converse with him; . . . . yet, by the knack of his talk, which was the most like reason without being it, he retained still too much credit with the duke; who being amused and confounded with his positive discourse thought him wiser than those who were more easily understood."[2]

Unless Sir Richard Lane was continued after the decapitation of the late king as nominal lord keeper till his death in 1650, of which there is no evidence except that on his widow's tomb, that office had not hitherto been filled by Charles II; indeed since the battle of Worcester there had been no Great Seal to keep. But in 1653 the king, having provided himself with a new Seal at Paris, entrusted it, against his own inclination, but at the urgent solicitation of the queen mother[3], to Sir Edward Herbert in April of that year. The duties of the office, judicial or political, could not have been very onerous; and his time is described as being principally employed in endeavouring to effect the ruin of

[1] Clarendon, vi. 63, 82, 127–30, 140.

[2] Clarendon, vi. 321, 474, 483.

[3] Evelyn, v. 284, 288.

Sir Edward Hyde, of whose ascendency over the king he was inordinately jealous. He showed his enmity on every occasion, and was met with corresponding hatred on the part of Hyde, whose prejudice is so apparent in every sentence, that the character he gives of Herbert would be altogether unworthy of credit, were it not that both Charles I. and his son appear to have concurred in his opinion. His dismissal from the office of attorney-general by the former king has already been noticed; and the latter king seems to have been as little satisfied with the new lord keeper as Hyde. There was indeed, as matters stood, not much business to be done in his office, but in the little that arose Clarendon says, "he appeared only in his old excellent faculty of raising doubts, and objecting against everything that was proposed, and proposing nothing himself." That the king's dislike was real is proved by his resolving that Herbert should not accompany him when he left France in June in the following year. Sir Edward was so indignant at this mark of disgrace that he immediately surrendered the Great Seal; and, says Lord Clarendon, "never after saw his majesty." He died at Paris in 1657; or according to another authority, he survived till the restoration, and died at Rouen.

Sir Edward married Margaret, daughter of Sir Thomas Smith, master of the Requests, and widow of Thomas Carey, the second son of the Earl of Monmouth, one of the gentlemen of the bedchamber to Charles I., through grief at whose death he sickened and died. She survived Sir Edward, and in September 1660 presented a petition to Charles II. stating her husband's services and losses, and praying a grant of the king's new year's gifts; a warrant for which she received for three years, deducting 1,000*l.* for the privy purse.

His three sons all became distinguished in the succeeding reigns. The eldest, Charles, commanded a regiment of foot

under King William, and was slain in the battle of Aghrim, in 1691. The second, Arthur, was the admiral who brought over that king in 1688, and was created Earl of Torrington, but dying without issue his title became extinct in 1716. The youngest, Edward, took the contrary side, and as chief justice of both benches to James II. will be noticed in a future page.[1]

HOLLOWAY, RICHARD.

JUST. K. B. 1683.

See under the reign of James II.

HYDE, EDWARD, LORD HYDE, AND EARL OF CLARENDON.

LORD CHANCELLOR, 1658.

THE illustrious subject of the present sketch is less distinguished as a lawyer, than as a statesman and an historian. The name of Edward Hyde, Earl of Clarendon, will ever be regarded with admiration and reverence for his devoted adherence to Charles I. during his misfortunes, and to Charles II. for nearly twenty years after. His services to both monarchs, and the influence he exercised in the councils of that eventful period, must necessarily occupy a large and interesting portion of the annals of the kingdom: and though the principles by which he was guided, and the motives which prompted him, will no doubt be variously represented according to the political bias of the writers who record his actions,—one party impugning what the other extols, and his conduct being painted now in deep shadow, and now in the brightest light,—the almost universal verdict, after two centuries of investigation, is an unreserved acknowledgment of his loyalty, his wisdom and his integrity. To judge of the policy he pursued, and the effects it produced, is the province.

[1] Clarendon, vii. 67–76, 89, 91, 236; Lives of the Chancellors (1708), i. 133; Notes and Queries, 2nd series, x. 425; Cal. State Papers, 1660, p. 274.

of the historian: that of the biographer is to deduce from the general tenor of his life whether his intentions were pure and patriotic, or selfish and corrupt. In the memoirs written by himself we of course see him in the most favourable point of view; and other writers who have treated of his career, though differing in some particulars, have not succeeded in materially varying the impression.

Henry Hyde, the father of the earl, was the third son of Lawrence Hyde of West Hatch and the brother both of Sir Nicholas Hyde, the chief justice in the last reign, and of Sir Lawrence, the father of Sir Robert Hyde, the chief justice in this. By his marriage with Mary, daughter and one of the coheirs of Edward Langford, Esq., of Trowbridge, he had a large family. Edward was the third of his four sons, and was born at Dinton in Wiltshire, the family residence, on February 18, 1608–9. After an education under his father's roof till he attained the age of thirteen, he was sent to Oxford with a royal recommendation to be elected a demy at Magdalen College; on the refusal of which[1] he was admitted a student at Magdalen Hall in Lent Term 1623. On taking his degree of B.A. he began his legal curriculum at the Middle Temple on February 1, 1626, his uncle Sir Nicholas being then treasurer. Early in 1633 he and Whitelocke were chosen the representatives of that society to manage the famous masque given by all the four Inns of Court to the king and queen, for the purpose of showing their disapproval of the doctrines promulgated by Prynne against interludes in his "Histrio-Mastix."[2] He acknowledges that at first he gave himself up to gay society and did not pursue his legal studies very industriously, but still enough to enable him to pass respectably through his uncle's nightly examinations.

Before his call to the bar he had been married twice; once in 1629 to Anne, daughter of Sir George Ayliffe, who died

[1] Cal. State Papers, 1623, 8, 120. [2] Whitelocke, 19.

six months afterwards; and again in 1632 to Frances, daughter of Sir Thomas Aylesbury, Bart. From the time of this second marriage and his father's death, which followed soon after, he devoted himself more assiduously to his profession; and having been called to the bar on November 22, 1633, he received in December 1634 a grant of the office of keeper of the writs and rolls of the Common Pleas.[1] His name does not appear as a barrister in the reports of this period, but he was engaged in causes before the council, and, according to his own account, he got into good practice in the Court of Requests. By the countenance of Archbishop Laud, whose confidence he had acquired, and by the consideration shown for him by other great men, with whom he had formed friendships, added to the recommendation of his own family connection, he soon met with encouragement from the judges of Westminster Hall, and realised a good professional income. Dividing his time between forensic studies and polite literature, he formed intimacies with the most eminent men in both classes, and was happy in the enjoyment of their society, till the troubles that afterwards arose divided him from some of his early friends.

In the first parliament of 1640 he was returned by two constituencies, Wootton Basset and Shaftesbury, and sat for the former. During its short session he spoke against the grievous encroachments of the Earl Marshal's court, of which, in the second (or "Long") parliament of that year, representing then the borough of Saltash, he procured the suppression. Though exerting himself at first for the removal of this and other enormous grievances, as soon as he saw the intention to encroach upon the royal prerogatives he stood forward in their support. The dominant party in the house, he says, were inimical to him from the first, knowing his devotion to the church and his loyalty to the king, and

[1] Rymer, xix. 605.

particularly for his endeavours to save Lord Strafford's life. Yet they appear to have used him for their purposes, by making him chairman of several of their committees, and sending obnoxious messages by him to the lords. Cromwell, whom he had occasion to rebuke for intemperate conduct in a private committee where he presided, entertained against him a great enmity, to which may probably be traced the harsh votes against him that were afterwards adopted. In 1641 he had his first interview with the king, who was desirous to thank him for his exertions in parliament, and to induce him to delay the bill against episcopacy till his majesty returned from Scotland; which Hyde, who was chairman of the committee, managed to effect. He secretly penned the answer adopted by the king to the remonstrance of the commons; and in reward for his services was offered the place of solicitor-general, which he declined to accept, advising the king that it would be dangerous to turn out St. John at that time. He continued privately to give information to the court, as well before as after its removal to York, of all that was transacting in the house, supplying answers to the various declarations of the parliament, which the king, to screen him from discovery, invariably copied with his own hand.

The republican leaders, though they suspected Hyde to be the author, had not sufficient evidence of the fact to visit him with the vengeance they contemplated. As soon however as he eluded their intentions by joining the king at York, they disabled him from sitting in the house and excepted him from the pardon they offered to all who would withdraw from the king. On March 3, 1643, the office of chancellor and sub-treasurer of the Exchequer was granted to him for life[1], and he was at the same time knighted and sworn a privy-counsellor. He was consulted by the king in his most

[1] Report Pub. Rec. App. ii. 187.

secret affairs, composing most of the important state papers issued, and was one of the conductors of the issueless negotiation at Uxbridge. When it was determined to send Prince Charles to the west, Sir Edward Hyde was one of those appointed to accompany him, and his interview with the king at his departure on March 4, 1645, was the last that he had with the unfortunate monarch. He attended the prince till July 1646, when, his highness leaving Jersey, to which he had retired, for France, Hyde remained at the former place for the two succeeding years, employing his leisure in preparing his great work on the History of the Rebellion, some of the materials for which were supplied by the king himself. He then joined the prince again and was with him at the time of his father's murder, when he was immediately sworn of the new king's privy council. Soon after he and Lord Cottington were sent as ambassadors to Spain, where their mission was not successful, and then returning to his family at Antwerp, he stayed there till after the battle of Worcester, when being summoned to the king at Paris, he continued in close attendance on his majesty in all the various places at which he resided during his exile. The king relying on him as his chief adviser, he not only performed such duties as attached to his office (which it may well be supposed, considering the straitness of the Exchequer, were difficult enough), but also acted for some time as the principal secretary of state, and carried on the most important part of the correspondence. The weight of these duties was greatly increased by the extremity of penury and want which he suffered, of which he gives a pitiable account in his letter to Sir Edward Nicholas. Yet even then his position excited envy, and with a view to his removal from it a ridiculous charge was invented against him that he was in intimate correspondence with Cromwell, into whose chamber it was alleged he had been seen to enter on a

secret visit to England. Charles treated it as it deserved, by giving his personal testimony of its falsehood.

The Great Seal, ever since Sir Edward Herbert's resignation in June 1654, had remained in the hands of the king without any occasion for its use. But now, being pestered with perpetual applications by the companions of his exile for offices, titles, and reversions, and by the adherents of Cromwell for secret confirmations of grants and estates, the king put an end to the personal annoyance by entrusting it on January 29, 1658, to Sir Edward Hyde, with the title of lord chancellor; and in that character he accompanied the king to England on the Restoration in 1660, for which by his cautious counsels he materially cleared the way. As chancellor he resided at first at Dorset House in Fleet Street, and afterwards at Worcester House in the Strand, till he removed in 1667 to the palace which he built at the top of St. James's Street, the magnificence of which so greatly increased the popular prejudice against him.

To the heavy and multifarious duties of this office were added those of the chancellor of the Exchequer which he executed for several months after Charles's return; besides the management of all the important business of the state, and the necessary changes consequent on the renewal of legitimate government. He was in fact prime minister, without the title, but with all the envy and discontent usually attendant upon one who is supposed to guide the councils of his sovereign. Notwithstanding the confidence placed in him both by the late and the present king, the queen-dowager had from the first shown a distaste and almost an aversion to him; and her jealousy of the ascendency of his counsels instead of her own was in no degree abated by the successful results which she could not but attribute principally to him. His position, triumphant as it was, was not therefore without its annoyances, and these were greatly augmented before

the first year had expired by the discovery of the pregnancy of his daughter Anne, who had some years before been taken into the court of the Princess of Orange, the king's sister, as maid of honour. An intimacy had arisen between her and the Duke of York; and though an early contract and a secret marriage were alleged, doubts, and denials, and detractions of the lady's character, were circulated, and consequent expectations of the chancellor's ruin and downfall were formed, supported, as they were, by the queen's openly expressed abhorrence of the connection. Charles's confidence however was not to be shaken, and he disappointed Hyde's enemies by taking the opportunity of calling the chancellor up to the House of Peers, as Baron Hyde of Hindon (Nov. 3. 1660), and by presenting him with a royal gift of 20,000*l.* Soon afterwards his daughter's character was cleared by the confession of her perjured calumniator, the marriage acknowledged, and her claims fully recognised. On April 20, 1661, three days before the coronation, the chancellor was advanced from a barony to a viscounty and an earldom, by the titles of Viscount Cornbury in Wiltshire (an estate presented to him by the king), and Earl of Clarendon.

This elevation for a time silenced his enemies, and for the next year or two his influence in the royal councils suffered no diminution. The king treated him with kindness and familiarity, applied to him for advice in all emergencies, and even patiently submitted to the remonstrances he sometimes ventured to offer against the immorality so openly practised and encouraged at court. But at length the panders to those practices obtained the mastery. By ridiculing and mimicking the chancellor's overstrict formality, they led the king gradually, first to suffer, then to laugh at their indecent reflections, till by degrees the fickle pupil was ashamed of appearing to be schooled. Clarendon's credit at court thus sensibly declining, his policy became the next subject of

attack. To him were attributed every political oversight, every royal disappointment, and every national calamity; corruption was insinuated and bribery was hinted, till at last his enemies acquired such an ascendency over the king and the parliament, that his downfall and his ruin became inevitable.

A premature attempt to disgrace him was made in July 1663, by the Earl of Bristol, who suddenly exhibited articles of high treason against him before the House of Peers. But the charges were so absurd and false, that the chancellor, whose credit had as yet suffered no diminution, had no difficulty in repelling them; and the king was so offended with the libellous expressions against himself which they contained, that the earl was obliged to abscond and remain in privacy till the chancellor's fall. This did not occur till four years afterwards.[1]

The king became more and more tired of his reproachful lectures, administered, as the chancellor acknowledges, with unadvised earnestness; his enemies at court were more and more jealous of the influence he still retained; he had been all along obnoxious both to Presbyterians and Roman Catholics; and the people, taught to attribute to his mismanagement the miscarriages of the state, were strongly prejudiced against him. The way was thus fully paved to the success of the intrigue for his removal, in which the chief actors were the Duke of Buckingham, Lord Arlington, and Sir William Coventry, urged on and aided by the arts of the Duchess of Cleveland, the king's shameless mistress. Clarendon, conscious of innocence, refused to resign; and the Great Seal was taken from him on August 30, 1667. At the meeting of parliament in October, the malice of his opponents not being satisfied with the triumph they had obtained, an impeachment for high treason was voted against him by the commons; but the lords refused to commit him

upon so general an accusation until some particular charge was exhibited. No one can read the articles without seeing the weakness and frivolity of the allegations, none of them, even if true, amounting to treason. To each and every of them Clarendon has left a satisfactory answer; but during the discussion on the subject of his committal, which continued for near a month, and nearly led to an open breach between the two houses, he withdrew to France. This he was induced to do much against his own judgment and inclination, in consequence of an intimation from the king, who, though at first acknowledging his innocence, was worked upon ungratefully to desert him; and from the urgency of his friends, who, considering the temper of the parliament and the people, were fearful if he staid that he would meet with Strafford's fate.

He left a justificatory letter to the House of Lords, which from the reflections it contained against his persecutors so excited the bile of the commons, that it was ordered to be burned by the common hangman; and they pursued their inveteracy so far as to pass an Act banishing him from the kingdom, and prohibiting all correspondence with him, except by his own children and servants. Their malice followed him abroad, France by their influence at first refusing him an asylum; and so greatly was the popular prejudice excited against him, that while passing through Evreux he was assaulted and wounded by a company of English sailors, who would have killed him but for the timely interference of the authorities. France however soon altering her policy and withdrawing her prohibition, the banished earl retired first to Montpellier, then to Moulins, and eventually to Rouen, patiently employing the seven years of his exile in the completion of those works which have raised his character and extended his fame. He died at the latter city on December 9, 1674, in the sixty-sixth year of his age. It seems extra-

ordinary, and looks as if the party prejudice against him had subsided, that his remains should have been allowed a resting-place in Westminster Abbey, his body having been buried in Henry the Seventh's chapel.

Thus terminated the career of this great man. The court intrigue of which he was the victim, would probably not have succeeded had he not estranged the king by his unreserved remonstrances on the royal imperfections, and thus converted the confidence reposed in him into fear and disgust; and had he not, by his solemn and somewhat dictatorial bearing, offended many and made himself generally unpopular. And yet his disposition was friendly and affectionate, his conversation witty and enlivening, and Evelyn even describes him (iii. 96), of [illegible] "jolly temper." But his long experience of state affairs made him cautious and reserved, and perhaps haughty, to pressing applicants and encroaching courtiers; and in the last years of his career, when he saw his influence was declining, he now and then gave way to the irritation which would naturally arise from seeing the men he despised gradually acquiring an unhealthy ascendency over his too easy master. Though these men succeeded in wrecking his fortunes, all their subsequent malicious endeavours were not sufficient to substantiate their charges, or eventually to damage his character: for, while the most of them are forgotten, or only remembered with contempt, their victim is regarded as a devoted adherent to his sovereign in his adversity, an honest councillor in his prosperity, a patient sufferer during the penury of the court, and an indignant repeller of those foreign temptations to which, after his fall, so many, including the king himself, disgracefully succumbed.

Elected chancellor of the University of Oxford a few months after the Restoration, he held the office till his fall, when he sent in his resignation. Though Anthony Wood says that he put the university to more trouble during these

seven years than his successors did in the seventeen following, by his continual letters for degrees, dispensations, and diplomas, which occasioned much muttering among the members of convocation, it would have been more surprising if the applications of this nature had not been more numerous after fifteen years of intestine commotion, than after seven years of internal peace. But the Oxonian biographer appears to have had a great prejudice against the chancellor, almost amounting to a personal animosity, and took every opportunity of disparaging him, and of insinuating that he was corrupt in his administration. Soon after the publication of the "Athenæ," the chancellor's son cited the author before the court of the university for libellously charging the chancellor with not appointing the eminent lawyer, David Jenkins, who had suffered so much for his loyalty, a judge at the Restoration, because he would not give money for the place; and with corrupt dealing in making a king's serjeant of Cromwell's chief justice, John Glynne, who had been so active a servant of the republic. Wood was sentenced to be banished from the university for the libel, which was ordered to be publicly burned. The absurdity of the charge as to Jenkins is apparent from the fact that the venerable lawyer was then in his seventy-fifth year; and Glynne, by his adroit management before the king came over, had made his appointment a sort of political necessity. The absence of any confirmation of these charges for the two centuries that have succeeded may well be taken as a proof that they were wholly without foundation. The general imputation of bribery is sufficiently refuted as well by the absence of any specific charges being brought forward at a time when they would have been welcomed and encouraged, as by his leaving, after such opportunities of accumulation, his family so poorly provided for. The building of his great house in St. James's, which nourished the popular prejudice against him, greatly exceeded the

cost he intended, and compelled him for want of funds to mortgage his estate; and the nicknames of Holland House, and Dunkirk House, and Tangier Hall, by which it was satirically called, have been long dismissed as unfounded misnomers by the prejudiced multitude.

His judicial career was that of a cautious and prudent man, conscious of his deficiencies and anxious to supply them with the experience of others. He selected the best men to fill the vacancies on the bench, and he is said never to have pronounced an important decree without the assistance of two of the judges. In the administration of justice he is acknowledged to have been strictly impartial; and his "orders" for the regulation of the officers of his court, rendered necessary by the change in the government, are still considered admirably adapted for their purpose. His principal fame now rests upon his valuable History of the Rebellion, and the interesting memoirs of his own life; works which though evidently betraying a desire to justify his royal masters in the course they respectively pursued, and even to find excuses for their most equivocal acts, will always be valued as displaying a deep knowledge of mankind, and as ably picturing the scenes he describes. Admired as these works deservedly are, and beautiful as are some of the characters he draws, it must be acknowledged that the length of his sentences and turn of his periods give a certain turgidity and stiffness to his style. His other writings were chiefly theological, devotional, and political; and few of them are now regarded.

It may be doubted whether he was benefited by the union of his daughter with the Duke of York; in fact he prophesied that it would sooner or later prove his ruin; and it certainly did not retard it. Two queens were the issue of that connection, both holding prominent and honourable place in our history, the reign of one of whom acquired, from the

eminent men who flourished in it, the designation of the Augustan Age. The earl's eldest son Henry (the author of the diary of his time) succeeded to the title, which, with that of the Earl of Rochester, became extinct in 1753. The latter earldom had been granted in 1682 to the chancellor's second son, Lawrence, in whose son both earldoms united, and on whose decease both failed, his heir Lord Cornbury, eulogised by Pope and Horace Walpole, having in the same year been killed by a fall from his horse. The earldom of Clarendon was revived in 1776 in the person of Thomas Villiers, a scion of the house of Jersey, who had married the grand-daughter and heir of the last earl.[1]

HYDE, ROBERT.

JUST. C. P. 1660. CH. K. B. 1663.

ROBERT HYDE was the first cousin of the Earl of Clarendon, both being nephews of Sir Nicholas Hyde, chief justice of the King's Bench in the reign of Charles I. Robert's father, Sir Lawrence Hyde, who died in 1641, had a great name and practice as a lawyer, and held the office of attorney-general to Queen Anne the consort of James I. By his marriage with Barbara, daughter of —— Castilion, of Benham, Berks Esq., he had no less than eleven sons, most of whom distinguished themselves in their several vocations. Of the four in holy orders, one, Alexander, became Bishop of Salisbury; another, Edward, Dean of Windsor; and a third, Thomas, Fellow of New College and Judge of the Admiralty. Another son, Sir Henry, bred to diplomacy, was beheaded by the Parliament in 1651, for his adherence to the king; and the youngest son, James, a doctor in medicine, was elected principal of Magdalen Hall. Two only followed their father's profession; Sir Frederick, queen's

[1] Clarendon's Life; History of the Rebellion; Wood's Athenæ Oxonienses; Whitelocke's Memorials; Burnet; British Biography; Macdiarmid's Lives, &c.

serjeant, was promoted to a judgeship in South Wales, and Sir Robert, whose career is now to be traced, rose to the dignity which his uncle had previously attained.[1]

Robert, who was the second son, was born at his father's house at Heale near Salisbury in 1595. Admitted to the Middle Temple in August 1608, at the early age of thirteen, his father being then reader, he was called to the bar on February 7, 1617; and having been elected a bencher in November 1628, took his turn of reading in Lent 1638. By this time he had got into considerable practice, and two years after, in May 1640, he was summoned to take the degree of the coif. Having been chosen recorder of Salisbury he was returned as the representative of that city to the Long Parliament. A staunch loyalist, he joined the court party, and though there is not much evidence of his active interference, he succeeded in making himself obnoxious by voting against the bill for the attainder of Lord Strafford, for which his name was placarded in the list of the minority who opposed that unjust measure, under the title of "betrayers of their country." When the king retired to Oxford, the serjeant joined him, and attended the meeting of Parliament there, and also executed the commission of Array; the consequence of which was that he was voted a malignant, and expelled from his seat at Westminster. After the fatal termination of that reign, his noble relative relates that Charles II., in escaping from the disastrous battle of Worcester in 1657 was sheltered for many days in the mansion at Heale, which then belonged to the serjeant, and was occupied by the widow of his elder brother.[2]

During the Protectorate, he resumed his practice at the bar, and his arguments are reported by Hardres and Siderfin. At the Restoration he was immediately knighted, and

[1] Wood's Athen. Oxon. iv. 833; Clarendon's Life, i. 3.

[2] Parl. Hist. ii. 622, 756, iii. 219; Clarendon, vi. 340.

appointed a judge of the Common Pleas, no doubt by the influence of the Earl of Clarendon, his patent being dated May 31, 1660. He was one of the commissioners for the trial of the regicides, but, except on points of law, took no part in the proceedings. In the following spring the three Perrys, a mother and two sons, were tried before him, and condemned to be hanged for the murder of William Harrison at Campden in Gloucestershire, though the body had not been found, and though the judge at the preceding assize, Sir Christopher Turnor, had on that account refused to entertain the charge. Several years after their execution, Harrison appeared again, and related that he had been kidnapped and sold to slavery, from which he had escaped. The judge was dead before this discovery was made.[1]

On the death of Sir Robert Foster, Judge Hyde was again indebted to his noble relative for his promotion on October 19, 1663, to the chief justiceship of the King's Bench, where he presided for about a year and a half, without any great reputation as a lawyer: but Sir Thomas Raymond (Rep. 130) says that he was expert in the pleas of the crown, and especially in those which concerned a justice of peace. The extreme horror that he felt at anything that tended to rebellion was strongly manifested in the next year on the trial of certain printers of seditious books. To one of them named Twyn, capitally convicted of printing a treasonable work, called "A Treatise of the Execution of Justice," &c., inciting the people against the king and the government, who prayed his lordship to intercede for him, he gave the extraordinary and unmerciful answer, that he "would not intercede for his own father in this case, if he were alive." He was as severe against any one who promulgated doctrines contrary to the liturgy of the church, and his conduct on the trial of Benjamin Keach at Aylesbury on an indict-

[1] 1 Siderfin, 2; State Trials, v. 1030, xiv. 1312-24.

ment for publishing an heretical book, called "The Child's Instructor, or, A New and Easy Primmer," does not redound to his credit or liberality."[1]

His death occurred on the evening of May 1, 1665, when, after sitting in court during the day, he was seized with apoplexy in his study at Serjeant's Inn. He was buried in Salisbury Cathedral, where there is a monument to his memory surmounted by his bust. His wife, Mary, the sister of Francis Baber, M.D., of Chew Magna in Somersetshire, brought him no children.[2]

JEFFREYS, GEORGE.

CH. K. B. 1683.

See under the reign of James II.

JONES, THOMAS.

JUST. K. B. 1676. CH. C. P. 1683.

See under the reign of James II.

KELYNG, JOHN.

JUST. K. B. 1663. CH. K. B. 1665.

ANTHONY WOOD says, that "John Keeling, a counsellor of the Inner Temple and a person well read in the municipal laws of England, was created M.A. in the House of Convocation in August 1621;" and notices the chief justice as being possibly the same person. This is very unlikely, as the creation seems to have been made *causa honoris*, in consequence of the high reputation in which the recipient was held as a lawyer. The admission of the chief justice into the Inner Temple, as a mere student of law, more than two years after, on January 22, 1624, sufficiently overturns the presumption. The father was of the same inn, and is described as a resident of Hertford. Croke in his reports notices the name twice; once as Keeling, in 1635, and next

[1] State Trials, vi. 515, 702.

[2] 1 Siderfin, 253; Pedigree in Sir R. C. Hoare's Wiltshire.

as Keeling *junior*, in 1639. The former was probably the M.A. of Oxford; the latter the chief justice, and perhaps his son. He was called to the bar on February 10, 1632, and from this time to the Restoration, no mention is made of him in the reports. Lord Clarendon describes him to the king as "a person of eminent learning, eminent suffering, never wore his gown after the rebellion, but was always in gaol;" and he himself, on his being made a judge in 1663, speaks of his "twenty years' silence."[1]

With such claims it is not surprising that he was included in the first batch of new serjeants called by Charles II. on July 4, 1660, to take the degree at the following Michaelmas; and was immediately engaged on the part of the crown to advise with the judges relative to the proceedings to be adopted against the regicides. He is named as counsel on the trials of Colonel Hacker and William Heveningham; and in the next year in that of John James a fifth-monarchy man.[2] Returned as member for Bedford to the Parliament that met in May, 1661, he prepared the Act of Uniformity, passed in the next year. On November 8, he was made king's serjeant, and in that character was one of the counsel on the trial of Sir Harry Vane, towards whom his conduct was unfeelingly harsh and insulting.[3]

The resignation of Mr. Justice Malet opening the way for his further advancement, he was appointed to fill the vacant seat in the King's Bench on June 18, 1663. If he was present, as he is stated to have been, at the noted trial of the witches at Bury before Chief Baron Hale, in March, 1664, he must have been Hale's coadjutor on the circuit, and not serjeant, as the account of the trial calls him. The dissatisfaction with the verdict which he is represented to have

[1] Fasti Oxon. i. 404; 1 Keble, 526.

[2] 1 Siderfin, 4; Kelyng, 7; State Trials, v. 1177, 1229, vi. 76.

[3] Burnet, i. 184; State Trials, vi. 171.

expressed seems to proceed, not from his disbelief in the existence of witchcraft, but from his opinion that the evidence was not sufficient to convict them. Within two years after his promotion the death of Sir Robert Hyde made a vacancy in the office of chief justice of the King's Bench. It remained unfilled for nearly seven months, when Kelyng, on November 21, 1665, was elevated to the post. He retained it during the remainder of his life, with little reputation as a lawyer, and frequently incurring censure by his want of temper and discretion. In 1664, while puisne judge, he had bound over Mr. Roger Pepys to his good behaviour for speaking slightly of Chief Justice Hyde at a town sessions: and in 1667 complaints were made against him in parliament by gentlemen of the county for divers "high proceedings" in the execution of his office, as fining of juries, &c.; for which he was obliged to answer before the House of Commons. That body voted his proceedings to be illegal and tending to the introduction of arbitrary government, and at first seemed inclined to proceed with great severity, ordering that he should be brought to trial: but in the end, by the mediation of his friends, the matter was allowed to drop.[1] Again in 1670 he was obliged to apologise publicly in the House of Lords for rudely affronting Lord Holles on a trial in the court of King's Bench.[2] Sir Thomas Raymond however (p. 209), in recording his death, calls him "a learned, faithful, and resolute judge." He collected various crown cases in which he was the judge, which were published after his death by Chief Justice Holt.

He died at his house in Hatton Garden on May 9, 1671, leaving a son who was named in 1660 as one of the intended knights of the Royal Oak, and who afterwards was knighted and became king's serjeant. The family name of the mother of

[1] State Trials, vi. 697, 992; Pepys' Diary, iii. 278, 324–5.
[2] Preface to References in Life of Holt (1764), vi.

that son has not been found, but the register of St. Andrew's, Holborn, records her burial under her christian name Mary on September 26, 1667; and the judge's marriage with Mrs. Elizabeth Bassett, on March 23, 1667–8. In 1684 one of his grandsons was living at Southill in Bedfordshire.[1] Whether the William Kelynge who reported cases in the reign of George II. was of the judge's family does not appear.

LEEKE, THOMAS.

CURS. B. E. 1660.

See under the Reign of Charles I.

THE Leekes are a Shropshire family, and can trace their descent from an ancestor who was established at Ludlow in 1334. Thomas Leeke was the eldest of three sons of Ralph Leeke of Wilsland in that county. He was educated at the Shrewsbury School and at St. John's College, Cambridge, where he took his degrees of B.A. and M.A. in 1622 and 1626. Beyond his being admitted as a student at Gray's Inn in 1615 no other fact is known of him in the law, till he was appointed to succeed John (or William) Page as Cursitor Baron on November 25, 1642. As he was certainly not a serjeant, and is not named by any law reporter as a barrister, he probably held some office in the Exchequer before his promotion. His loyalty prompted him to join the king in the troubles; and in consequence of the inconvenience occasioned by his leaving his post, Mr. Richard Tomlins was put in his place by the parliament on September 29, 1645, in order that he might on the next day receive the new sheriffs of London, and preserve the forms which, the entry says, had never been omitted for the space of three or four hundred years.

At the restoration Mr. Baron Leeke reappeared and

[1] Wotton's Baronet. iv. 371; Grandeur of the Law (1684), 224.

resumed his official position, which he enjoyed for the short remainder of his life. He died in 1662, leaving no children to continue his line; but the descendants of his brother William are represented by Ralph-Merrick Leeke, Esq., of Longford Hall in the same county.[1]

LEEKE, WILLIAM.

B. E. 1679.

Though Dugdale's Chronica Series contains the name of William Leake as a baron of the Exchequer in 1679, and though in the reports of the kingdom there is a grant to him of the office on May 8 in that year, yet as he is never mentioned in the reports in that character, and as within a few weeks of the date the Exchequer Bench was quite full without him, there was evidently a mystery that required to be solved. Investigation has resulted in the discovery of the extraordinary fact that he refused the honour thus bestowed upon him. Many instances are to be found of modesty declining an offer of advancement, but this is a unique example of an office actually conferred being immediately abdicated.

William Leeke or Leake (it is Leeke on his monument) was the eldest son of William Leeke of Wimeswould in the county of Leicester, Esq. He was born about 1630, and was admitted into the society of Gray's Inn on June 23, 1653. It is curious that another William Leeke of a different family was entered at Lincoln's Inn in the same month and year. This William was called to the bar on November 8, 1661, and made an ancient of Gray's Inn on April 17, 1676. His monument speaks of his knowledge of the science of the law and his great pains to prevent litigation among his clients, which may account for his being

[1] Lords' Journals, vii. 606; Exch. Books; Burke.

nowhere mentioned by the reporters. Among the MSS. in the British Museum is an opinion given by him in 1674; and on February 12, 1679, he was summoned to take the degree of serjeant-at-law in the following Easter term, with the view, probably, to his further elevation. Accordingly on May 8 he received a patent as a baron of the coif. An entry in the Gray's Inn books shows that he had given up that title (if he ever took it) before May 28, for on that day liberty was given to him, under the description of Mr. Serjeant Leeke, to assign his chamber in the Inn to any other gentleman of the society;—an entry which did not necessarily show that he meant to retire from practice, as he had of course a chamber appropriated to him in Serjeant's Inn.

He died at the age of 57, on October 9, 1687; and in the encomiastic inscription on the monument set up for him by his wife and only daughter in Wimeswould church, occurs this passage:—

> "In alta enim Purpuratorum Judicum subsellia
> a Carolo II. evectus, munere se
> tam præclaro statim abdicavit;
> moderationis plane singularis
> rarum exemplum."

It may be questioned however whether moderation or prudence were his most powerful prompter; for when he saw the frequent changes on the bench, the sudden discharge of its most respected members, and the interference of the Commons in their judgments,—in short, when he contemplated the prevalent violence of party spirit, he might well think the elevation too dangerous to accept, and consider "the post of honour was the private station."

He married Catherine, daughter of William Bainbrigge, Esq., of Lockington in Leicestershire.[1]

[1] Addl. MSS. 6666, fo. 601; Pat. 31 Car. II., p. 5, m. 25; Nichols' Leicestershire, iii. 506.

LEVINZ, CRESWELL.

Just. C. P. 1681.

See under the reign of James II.

LYTTELTON, TIMOTHY.

B. E. 1670.

Timothy Lyttelton was the third judge of the family whose name is ever regarded by lawyers with respect and admiration. He was the great-great-grandson of the eminent judge of the reign of Edward IV., and the brother of the lord keeper of Charles I., being the seventh of the sons (of whom the lord keeper was the first) of Sir Edward Lyttelton of Henley in Shropshire, chief justice of North Wales, by Mary, daughter of Edmund Walter, Chief Justice of South Wales, the brother of Chief Baron Sir John Walter.

Very little is told of Timothy Lyttelton's career. Admitted into the Inner Temple on November 12, 1626, he was called to the bar November 3, 1635, and elected a bencher June 10, 1640. During the rebellion his history is a blank; but at the Restoration he held the office of recorder of Bewdley, and was appointed one of the Welsh judges.[1] The only subsequent notice of him is that, having been constituted a baron of the Exchequer on February 1, 1670, he went the Northern circuit in 1675, and had an assize sermon dedicated to him; and that he died early in 1679, and was buried in the Temple Church.[1]

MALET, THOMAS.

Just. K. B. 1660.

See under the Reign of Charles I.

The great-grandfather of Thomas Malet was Sir Baldwin Malet of St. Audries, Somersetshire, the solicitor-general of

[1] Wood's Fasti, ii. 231; Nash's Worcestersh. ii. 279; Cal. State Papers, 1660, p. 212; Gent. Mag. lii. 69.

Henry VIII., who derived his descent from the Norman baron of that name, a combatant on William's side at the battle of Hastings: but his connection with Robert Malet, one of the judges of the King's Bench in the reign of Edward I. cannot now be traced. The subject of this memoir was born about the year 1582, and took his legal degrees in the Middle Temple, entering that society on November 29, 1600, being called to the bar on November 7, 1606, and becoming reader there in Lent, 1626.[1]

In the first two parliaments of Charles I. he sided with the government; and in the case of the Duke of Buckingham he argued forcibly against common fame being received as a sufficient ground of accusation.[2] His name frequently occurs as an advocate in Croke's and Sir W. Jones's reports; and after filling the office of solicitor-general to the queen he was honoured with the coif on May 15, 1635. Six years afterwards he took his seat as a judge of the King's Bench, to which he was appointed on July 1, 1641,[3] a few days before the impeachment of six of his brethren; and was thereupon knighted. Not deterred by fear of the Parliament, at the very next Lent assizes he threw no discouragement on the proposed petition of the grand jury of Kent against the ordinance for the militia without the king's assent, and in support of the Book of Common Prayer;[4] and for having shewn this petition to the Earl of Bristol without first revealing it to the House he was committed to the Tower by the Lords on March 28, 1642. His confinement on this occasion lasted till May 2 when he was released on entering into a recognisance of 1000*l.* to appear before the Lords when called upon.[5] In that summer he again went the Home Circuit, and on some members of the House of

[1] M. Temple Books; Dugdale's Orig. 220.
[2] Parl. Hist. ii. 33, 52.
[3] Rymer, xx. 517.
[4] Introd. to Twisden (Camd. Soc.), xlix.
[5] Parl. Hist. ii. 1148; Lords' Journals.

Commons coming to the bench at Maidstone, where he was sitting, and producing certain votes of Parliament on behalf of the militia ordinance and against the king's commission of array, he boldly refused to permit them to be read, as not authorised by the commission under which he sat. For this courageous conduct King Charles sent him a letter of thanks, with a promise of protection.[1] This however the Parliament rendered inoperative, by promptly despatching a troop of horse and violently taking the judge from the bench at Kingston in Surrey. Carried prisoner to Westminster, the House immediately committed him to the Tower. There he remained a prisoner for above two years, till, in October, 1644, he was redeemed by the king in exchange for another, whose liberty the Parliament desired. They still regarded him "as the fomenter and protector of the malignant faction," and by an ordinance in November 1645, they disabled him and four of his colleagues "from being judges as though they were dead."[2]

During the succeeding fifteen years he suffered severely for his loyalty; losing a son in the king's service, and his property being greatly reduced by sequestrations. Immediately on the restoration of Charles II., though then seventy-eight years of age, he was replaced in his old seat in the King's Bench, his patent being dated May 31, 1660, two days after the king's arrival in London. From his speech on the trial of one of the regicides, shewing much of the garrulity of old age, it is evident that he was then nearly superannuated. He was however sufficiently alive to his interest to petition for and obtain grants of land in Somersetshire and Devonshire. He sat in court for the three succeeding years; but on June 18, 1663, the king on his petition dispensed with his further attendance, continuing to

[1] Papers published by Sir Charles W. Malet, Bart., in 1805, p. 13.
[2] Clarendon, iii. 153; Whitelocke, 107, 181.

him the name and salary of a judge[1], and granting him a pension of 1000*l.* a year. At the same time he was honoured with a baronetcy, the fiat for which, for some reason or other, he refrained from having completed during the two remaining years of his life.

He died on December 19, 1665, and was buried in Pointington Church, Somersetshire; leaving, besides other issue, a son, John, who was recorder of Bridgewater, but whose circumstances, under the recent sufferings of the family, did not justify either him or his descendants for the two next generations in soliciting the completion of the honour which King Charles had awarded to their ancestor. The judge's great-great-grandson, Charles Warre Malet, however, who filled some high offices in India, accepted in 1791 a new patent of baronetcy; but afterwards claimed that precedence to which he would have been entitled had the old patent passed the Great Seal. His application was not successful; his son Sir Alexander Malet of Wilbury House, Wiltshire, now enjoys the new honour.[2]

MAY, RICHARD.

CURSITOR BARON, 1683.

See under the reign of James II.

MONTAGU, WILLIAM.

CH. B. E. 1676.

See under the reign of James II.

MORTON, WILLIAM.

JUST. K. B. 1665.

THE great-grandfather of William Morton was Sir Rowland Morton of Massington in Herefordshire, one of the masters

[1] Cal. State Papers (1662), 348, 435; State Trials, v. 1030; 1 Siderfin, 150.

[2] State Papers, *ut supra* (1664), 565; Collinson's Somerset, ii. 377.

of requests in the reign of Henry VIII. His father was James Morton of Clifton, in the parish of Severne Stoke in Worcestershire, and his mother was Jane daughter of William Cook of Shillwood in the same county.[1] Educated at Sidney Sussex College, Cambridge, he took the degrees of B.A. and M.A. in 1622 and 1625; and admitted into the Inner Temple on October 24, 1622, he was called to the bar on November 28, 1630, and is mentioned in Croke's reports in 1639. The troubles immediately succeeded that date, when the young barrister exchanged his gown for the sword and joined the king, who conferred on him the honour of knighthood. He served as lieutenant-colonel in Lord Chandos's regiment of horse, and was entrusted with the government of his lordship's castle at Sudeley when it was attacked in 1644 by the parliamentary general Waller; and being betrayed by an officer of the garrison, he was made prisoner and sent to the Tower. Clarendon says (iv. 489), that "he had given so frequent testimony of his signal courage in several actions, in which he had received many wounds both by the pistol and the sword, that his mettle was never suspected, and his fidelity as little questioned: and after many years of imprisonment sustained with great firmness and constancy, he lived to receive the reward of his merit, after the return of the king." Some years after the end of the war he was released, and resumed his profession, probably confining himself to chamber practice, as his name does not appear in any of the law reports of the interregnum, nor was he likely to consent to plead in the courts of the usurped authority.

He was made a bencher of his inn on November 24, 1659, and within a few days after the Restoration was summoned to take the degree of the coif. In 1662, he was elected recorder of Gloucester, and was appointed "consiliarius" to

[1] Visitat. Worcestersh. 1634; MSS. Coll. Arms, signed by the Judges.

the Dean and Chapter of Worcester. In July 1663 he was created king's serjeant. On the promotion of Sir John Kelyng he received another proof of the royal favour by his nomination as a judge of the King's Bench on November 23, 1665. This position he filled respectably for nearly seven years; and had the good fortune to avoid censure, except from a class of men, who, notwithstanding their crimes, called forth the admiration of the vulgar by the boldness and success of their adventures, and even excited the sympathy of the better informed in their misfortunes by the occasional gallantry they displayed. Judge Morton was the terror of highwaymen, and they had some reason so to regard him, for when Claude Duval, the French page of the Duke of Richmond, took the road, and was after many wonderful escapes at last captured and convicted, the judge prevented the mercy of the Crown being extended to him, by threatening to resign, if so notorious an offender was allowed to escape. Duval was the most popular of his stamp, and an especial favourite with the ladies; to one of whom he returned 300*l.* out of 400*l.* he had taken from her, upon her dancing a coranto with him on the heath where he had stopped her coach. Dames of high rank visited him in prison and interceded for his life; and the good-natured king would probably have granted his pardon but for the interference of the judge.[1]

Sir William married Annie, daughter and sole heir of John Smyth, of Kidlington in Oxfordshire, where he erected an almshouse to her memory and that of their deceased children in 1671; and died in the summer vacation of 1672.

NORTH, FRANCIS, LORD GUILFORD.

CH. C. P. 1675. LORD KEEPER, 1682.

See under the reign of James II.

[1] Treasurer's Accounts, Worcester Cathedral; Lord Macaulay's England, i. 383, quoting Pope's Memoirs of Duval.

NOTTINGHAM, EARL OF. *See* H. FINCH.

PEMBERTON, FRANCIS.

JUST. K. B. 1679. CH. K. B. 1681. CH. C. P. 1683.

CHAUNCY, the historian of Hertfordshire, is the only author who speaks of his contemporary Sir Francis Pemberton with unmixed commendation. His other biographers, with whatever party they are connected, almost invariably qualify the encomiums they are compelled to utter with some expressions of depreciation. One says that he was a great lawyer, but that he had so towering an opinion of his own sense and wisdom, that he made more law than he declared. Another, while acknowledging that he was an excellent judge, asserts that his passion for preferment led him sometimes to do wrong. The various incidents of his career are so tinted by the different prejudices of the writers, whether Whig or Tory, that, not receiving the entire approbation of either party, the natural inference to an unprejudiced mind is, that he acted independently of both. That he was "damn'd with faint praise" receives its explanation in Burnet's admission that "he was not wholly for the court."

The family of Pemberton came originally from a town of that name in Lancashire; but a branch of it settled at St. Alban's in Herts and gave many sheriffs to that county. Ralph Pemberton, who was twice mayor of the borough in the reign of Charles I., was the father of the judge, who was born there in 1625; and after receiving the rudiments of his education in one of its private seminaries, was removed in August 1640, to Emanuel College, Cambridge, under the tuition of the learned Dr. Whichcote, whose niece he afterwards married. He remained at the university till February 1644, having taken the degree of B.A. in that year, and entering the Inner Temple on October 14, 1645, was called to the bar on November 17, 1654. Chauncy omits an-

mention of his youthful follies, probably considering that he redeemed them by his future life; but both Roger North and Burnet, the courtier and the Whig, agree in describing his beginnings as very debauched, and leading him into such extravagance that he soon wasted his patrimony, and involved himself in such debt that he lay many years in gaol. While there, he is represented by both to have made up for lost time, following his studies so closely, that, according to one, he came out a sharper at the law, and, according to the other, he became one of the ablest men of his profession. He, no doubt, had plenty of exercise for legal subtilties in the cases of his fellow prisoners, to aid whom his necessities obliged him to apply himself. How or when he obtained his release is not related, except by Lord Campbell, who enters into minute details, for which he has not given any authority. His brother lawyer Serjeant Chauncy says that he was made one of the counsel of the Marshalsea Court, an arena in which his prison experience would stand him in good stead. But soon after the return of Charles II. he is mentioned in the courts at Westminster, and evidently got into considerable practice. Pepys (iii. 371) consulted him on prize-business, and mentions the heaps of gold upon his table; and in 1668 he was employed by the crown in the prosecution of the apprentices tried for high treason in tumultuously assembling under colour of pulling down disorderly houses.[1] In 1671 he was called to the bench of his Inn, and became Lent reader in 1774, on which occasion Chauncy says he kept a "noble table" there. It is thus apparent that he soon outlived his early reputation: and that he was held in high estimation in his profession is proved by his being appointed king's serjeant in August 1675, not seven months after his being summoned to assume the coif. In the interval, he became the innocent victim of an absurd

[1] State Trials, vi. 880.

quarrel about privilege, between the two houses of Parliament. An appeal in a suit, wherein a member of the lower house was a defendant, having been made to the House of Lords in its judicial capacity, the Commons pertinaciously contended that their members were privileged from appearing before that assembly. The counsel appointed by the lords to plead in the cause, were ordered into custody by the Commons for their compliance, and, on being released by the lords, were again seized, and committed to the Tower. The journals of the two houses[1] give a very amusing account of this ridiculous farce; and "so high at last the contest rose," that the king was obliged to put an end to it by proroguing and afterwards dissolving the parliament. Serjeant Pemberton was one of these counsel, and after being released by the lords, was retaken by the speaker (Seymour) himself in the middle of Westminster Hall. His imprisonment of course ended with the session.

On being made king's serjeant, he received the honour of knighthood; and in less than four years, viz. on May 1, 1679, he was constituted a judge of the King's Bench. At this time, as the trials arising out of the pretended popish plot were proceeding, he of necessity took part in several of them, and from the questions that he put it is very evident that, though he had some belief in the plot, he had not much confidence in the witnesses. Before he had sat a twelvemonth, Scroggs, who was then chief justice, intrigued for his removal, and he received his discharge on February 16, 1680, three weeks after the trial and acquittal of Sir Thomas Gascoigne. He immediately returned to his practice at the bar, and at the end of another year he was selected to displace Scroggs in the higher office of chief justice of the King's Bench, his patent being dated April 11, 1681. From this court he was removed to preside in the Common Pleas on

[1] State Trials, vi. 1146.

January 22, 1683. Sir T. Raymond says in his reports (p. 478) that this change was made by his own desire, for that the latter was a place (though not so honourable) yet of more ease and profit. And so no doubt it was given out; but both Burnet (vol. i. 535) and North (p. 223) agree that the proceedings against the City of London then coming on for argument, Pemberton, who was not considered sufficiently favourable to the views of the crown, was made to give way to Sir Edmund Saunders, who had advised on all the pleadings. Sir Francis was at the same time sworn a privy counsellor. He however kept neither honour very long, being dismissed from his office of judge on September 7, following, and removed from the privy council in the next month. This second dismissal is attributed by Burnet to the judge's showing "so little eagerness against Lord Russell," whose trial had taken place in the previous July. Whether that was the real cause or not, his removal from the privy council shows that he was turned out for political purposes. He is said to have boasted that "while he was a judge"—a period of only three years and a half—"he had for his own share made more law than king, lords, and commons, since he was born."[1]

He then a second time returned to the bar and practised with great success as a serjeant for the next fourteen years, till his death in the ninth year of King William. Though in 1688 he was the leading counsel who defended the seven bishops, and, by obtaining their acquittal, produced the Revolution, yet in the very next year the Convention Parliament called him to account for a judgment by which six years before he had overruled a plea of Topham the serjeant-at-arms to the jurisdiction of the court. Both he and Sir Thomas Jones, who had joined in the judgment, were committed to prison, though they gave very sufficient reasons for

[1] Lord Campbell's Chancellors, iii. 394, note.

their decision. They remained in durance from July 19, till the end of the session, which terminated either on August 20 when the Parliament was adjourned, or on October 21 when it was prorogued.

Pemberton's conduct in giving reasons to the house for his judgment has been contrasted with Chief Justice Holt's bold refusal to do so in the Earl of Banbury's case, without considering the wide difference between them. Holt claimed exemption before the House of Lords, because he, as chief justice, might be called on to advise judicially if the question came before them on a writ of error; while Pemberton was catechised by the House of Commons for a supposed breach of their privileges in refusing justice to their officer; and however extravagant the claim might be, he could not, being no longer a judge, very well decline to give his reasons why his decision was no infringement of their privileges. The proceedings against the judges were as harsh as they were irrational and ungenerous.

Lord Campbell, writing with the pen of party, attempts a justification of the house by asserting that "there is *every* reason" (though he does not assign *one*) "to believe that the plea was substantially a plea in bar," and that Pemberton wilfully misrepresented it as a plea to the jurisdiction. Although there is actually a copy of the plea in the citation made by his lordship himself from 14 East, plainly proving the truth of the defence, Lord Campbell says that the record is not to be found, not having been returned to the proper custody after being produced to the House of Commons. If so produced the speaker must have seen it. The noble author would therefore not only make Sir Francis Pemberton, and Sir Thomas Jones also, who confirmed the fact, guilty of falsehood, but he would infer that the speaker, himself a lawyer, was so blindly ignorant, as, with the record before him, to put interrogatories in accordance with their

statements, instead of noticing any misrepresentation of the plea. Against Lord Campbell's disbelief must be placed the recorded history of the time, and the expressed opinion of two judges of such eminence and weight as Lords Ellenborough and Erskine.[1]

He died at his house at Highgate on June 10, 1697, and was buried in the chapel there, upon the pulling down of which his monument was removed to Cambridge. By his wife, Anne, daughter of Sir Jeremy Whichcote, Bart., he had eleven children, of whom seven survived him, three sons and four daughters.

Sir Francis Pemberton is reputed to have been a generous and charitable man, and to have been endowed with a ready wit and quick apprehension. At the same time, his notions are described as curious, and his distinctions nice; and certainly his phraseology was peculiar, for he was in the habit of commencing his addresses to counsel, jury, and prisoner, with Captain Fluellen's expression, "Look you." Roger North's account of him (p. 222-3) is a very prejudiced one, because he was in some sort a rival of the author's brother, Lord Guilford; and while he is obliged to acknowledge his excellence as a lawyer, he imputes to him, without the slightest evidence, misconduct both as counsel and as judge. Burnet describes him as one of the ablest men of his profession, and allows that he summed up against Lord Russell "at first very fairly;" yet he evidently regards him with a somewhat jaundiced eye. Though he accounts for his removals by saying "he was not wholly for the court," he was not quite satisfied with him, because he was not wholly a Whig. Serjeant Runnington praises his behaviour on Lord Russell's trial as marked "with a candour and decorum seldom found in the judges of that reign or the succeeding one;" and the best

[1] State Trials, xii. 822–34; Lord Campbell's Ch. Justices, ii. 56.

proof that the family of Bedford did not impute to him any injustice or cruelty is that the old earl advised with him whether the attainder would prevent Lord Russell's son from succeeding to the earldom. The opinion that he gave remains among the archives of Woburn. Serjeant Chauncy also describes his general conduct while presiding in the most flattering terms, an opinion in which all must concur who read the trials of the period. His career was curiously marked by vicissitudes. After a youth of dissipation he became a profound lawyer; he was raised to the bench twice, and was twice dismissed by the king as being too lenient to those who opposed the court, and was twice imprisoned by the House of Commons — one time at least — as acting arbitrarily and unjustly on the bench; after filling the highest judicial offices he twice resumed his place at the bar; and notwithstanding all his reverses, and in spite of the condemnation of party writers on both sides, his memory is regarded with that respect, which always accompanies moderation and independence.[1]

RAINSFORD, RICHARD.

B. E. 1663. Justr. K. B. 1668. Ch. K. B. 1676.

Richard Rainsford was born in 1605 at Staverton near Daventry, the residence of his father Robert Rainsford, who was descended from an old Lancashire family. His mother was Mary daughter of Thomas Kirton Esq., of Thorpe-Mandeville. Admitted to Lincoln's Inn on May 24, 1625, two months after Charles I. came to the crown, he was called to the bar on October 16, 1632; and for this society as his legal mother he showed his admiration and regard by presenting a silver cup when he was chief justice. Of his professional career the reports make no mention till the

[1] Chauncy's Herts; Burnet's Own Time; North's Lives, *ut supra;* Lord Macaulay's England, iii. 380.

Restoration of Charles II.; and the only proofs of his practice as a lawyer in the interval are his appointment in 1630 as recorder of Daventry, and in 1653 as recorder of Northampton.[1] Known as a loyalist he was elected member for the latter borough in the Convention Parliament that met before Charles's return; and was nominated after that event as one of the Knights of the Royal Oak, had that order been instituted as at first intended. He sat also for the same borough in the parliament of 1661, but took no ostensible part in the debates.

On October 5, 1661, he was called serjeant, and soon after was knighted, for he is named with that title in his patent as baron of the Exchequer, dated November 26, 1663. After sitting in that court a little more than five years he was removed into the King's Bench on Feb. 6, 1669. Baker (i. 323) states that in 1667, while a baron, he officiated as recorder of Daventry; and Roger North (Lives, 130) relates a curious story about a witch brought to Salisbury to be tried before him. "Sir James Long came to his chamber and made a heavy complaint of this witch, and said that if she escaped his estate would not be worth anything, for all the people would go away. It happened that the witch was acquitted, and the knight continued extremely concerned; therefore the judge, to save the poor gentleman's estate, ordered the woman to be kept in gaol, and that the town should allow her 2s. 6d. per week; for which he was very thankful. The very next assize, he came to the judge to desire his lordship would let her come back to the town. And why? They could keep her for 1s. 6d. there; and in the gaol she cost them a shilling more."

On the resignation of Sir Matthew Hale, Sir Richard was further promoted to the chief justiceship of his court on April 12, 1676. His answer to the lord chancellor's inau-

[1] Bridges' Northampton, i. 493; Baker's do. i. 134, 323.

gurating speech gracefully alludes to his eminent predecessor, in comparison with whom he declares himself to be "like a candle lighted in the sunshine, or like a glow-worm in the midday," and modestly acknowledges his anxiety and doubt how he should succeed to so able, so good, and so great a man. The only important state question which is reported as discussed before him was the Habeas Corpus applied for in June 1677 by the Earl of Shaftesbury, on his imprisonment by the House of Lords; when it was decided that the court had no jurisdiction, and the earl was remanded to prison. Ventris (p. 329) says that Sir Richard was removed from his office in Trinity term 1678; but there does not appear to have been any political cause for so strong a measure; as no great question was then in agitation, and the popish plot had not yet been ventilated. It might be that his age and incapacity, which ought to have prevented his promotion to so prominent a position, had then become more apparent; or that the minister, Lord Danby, made them the excuse, in order to promote his favourite Sir William Scroggs to the place; but it is far from improbable that Sir Richard's own feelings of decay prompted his retirement, for he did not survive it much above eight months, during which he received an annuity equivalent to his salary. His death occurred on Feb. 17, 1679, at Dallington, the manor of which he had purchased; where there is a monument over his remains, and where he left a memorial of his charity in an almshouse for two old men and two old women with a weekly allowance of two shillings each.

He was very estimable in his private life, and would have had a fair, though secondary, reputation as a lawyer, had he not been so unfortunate as to succeed such an eminent judge as Sir Matthew Hale, whom he was as much below in point of learning, as he was above Sir William Scroggs his successor in point of integrity. He married Catherine

daughter of the Rev. Samuel Clarke of Kingsthorpe, D.D., his eldest son by whom, by his marriage with Anne, daughter of Richard Neville of Billingsbere, had a daughter from whom Lord Braybrooke is descended.[1]

RAYMOND, THOMAS.

B. E. 1679. JUST. C. P. 1680. JUST. K. B. 1680.

ACCORDING to Lord Campbell, the father of Sir Thomas Raymond was a trader in the City of London; but the judge describes himself in his admittance into Gray's Inn as the son of Robert Raymond of Bowers-Giffard in the county of Essex, deceased; which is near Downham, where the judge possessed an estate called Tremnals. He entered that society on February 16, 1644, and though called to the bar on February 11, 1650, he does not appear in the reports of the commonwealth. From the period of the Restoration he was himself a diligent reporter during the remainder of his life; and was in considerable practice. In Michaelmas term 1677 he was created a serjeant, and less than two years afterwards was raised to the bench; though, as he declares, he laboured, and not without reason, to prevent his promotion. He filled in the course of one year a seat in each of the three courts; receiving a patent as baron of the Exchequer on May 1, 1679; from which he was removed to the Common Pleas on February 7 following; and on April 29 was transferred to the King's Bench. In the latter court he sat for little more than three years, during which he assisted in the trials and acquittals of Mr. Cellier and the Earl of Castlemaine, luckily coming into office at the fag end of the pretended popish plot, when the tide was beginning to turn, and chief justice Scroggs thought it his interest to test the credibility of the witnesses whose evidence he had before received with undoubting faith.

[1] Bridges and Baker, *ut supra*; Collins' Peerage, viii. 157.

Though Roger North relates of Sir Thomas that two old women were tried before him at Exeter for witchcraft, and that, by his passive behaviour, and neglecting to point out to the jury the irrationality of their confessions, he suffered them to be convicted, and one of them to be hanged, by his general conduct on the bench he escaped the censure to which too many of his colleagues in this reign were liable, and probably by his early death avoided the dismissal which was the too common reward of straightforward independence and an honest administration of justice. As there is no evidence of the "extraordinary servility," which Lord Campbell imputes to him, nor any other ground adduced for designating him as an "unprincipled judge" except his concurrence with the rest of the court in the decision on the Quo Warranto against the City of London (a case turning on many difficult points of law), the prophetic future, which his lordship's prejudice would ascribe to him if he had lived, may in fairness be disregarded and set aside, receiving only the noble author's reluctant admission that he was a judge of "extraordinary learning,"—a subject on which every lawyer is ready to allow his lordship to have been a sufficient authority.

The judge died in the fifty-seventh year of his age on July 14, 1683, while engaged on the circuit, and was buried in the parish church of Downham. By his wife, Ann, daughter of Sir Edward Fish, Bart., he had one only child, his more famous son Robert, Lord Raymond, chief justice of the King's Bench, an account of whom will be given under the reign of George II. The reports both of the father and son are in great repute in Westminster Hall.[1]

[1] Morant's Essex, i. 206; North's Lives, 130; Lord Campbell's Ch. Justices, ii. 189.

SAUNDERS, EDMUND.

CH. K. B. 1683.

THE parentage of this short-lived chief justice is involved in much obscurity. His career commencing in the deepest poverty, his associates selected from the lowest class, with habits in accordance with theirs, and his elevation being of so short continuance, no endeavours were made during his life to trace his real history. Yet one would think that these very circumstances would have given a peculiar interest to an account of the process by which he first extricated himself from his low condition, of the means which he used, and the energy which he exercised, to acquire that mastery over the intricacies of the law which his reports exhibit, and of those powers by which he gradually acquired the ear of the court, and attained the high rank to which he was at last promoted.

Roger North is the only contemporary author who gives any description of his career; but the colouring with which he paints it requires perhaps some softening. He says that Saunders "was at first no better than a poor beggar boy, if not a parish foundling, without known parents or relations." By his will however it appears that he was born in the parish of Barnwood, about two miles from Gloucester, to the poor of which place he bequeathed 20*l*. It leaves legacies to his "father and mother Gregory" also; from which fact Lord Campbell fills up the blank by saying, on what authority does not appear, that "his father, who was above the lowest rank of life, died when he was an infant, and that his mother took for her second husband a man of the name of Gregory.' His lordship's suggestion that he ran away because he was "hardly used by his father-in-law," seems to be ignored by the confidence placed in the discretion of his "father Gregory" by his will.[1]

[1] Life of Lord Guilford, p. 223; Lord Campbell's Ch. Justices, ii. 59.

Roger North's account proceeds thus: "He had found a way to live by obsequiousness (in Clement's Inn, as I remember), and courting the attorneys' clerks for scraps. The extraordinary observance and diligence of the boy made the society willing to do him good. He appeared very ambitious to learn to write; and one of the attorneys got a board knocked up at a window on the top of a staircase. . . He made himself so expert a writer that he took in business, and earned a few pence by hackney-writing. And thus by degrees he pushed his faculties and fell to forms; and by books that were lent him became an exquisite entering clerk." This course of education was pursued during the Commonwealth, for by the time of the Restoration he had so advanced in his means as to become a member of the Middle Temple, to which he was admitted on July 4, 1660, being described "of the city of Gloucester, gentleman." Called to the bar on November 25, 1664, he began to compile his reports two years afterwards; and as he was himself in most of the cases in his work, and Sir T. Raymond mentions his name frequently from January 1668, it is clear that he got into early practice.

A curious and pictorial description of his person, habits, and general character is given by Roger North:

"As to his person, he was very corpulent and beastly; a mere lump of morbid flesh. He used to say, 'by his froggs, none should say he wanted issue of his body, for he had nine in his back.' He was a fetid mass, that offended his neighbours at the bar in the sharpest degree. Those whose ill-fortune it was to stand near him, were confessors, and in summer-time almost martyrs. This hateful decay of his carcase came upon him by continual sottishness; for, to say nothing of brandy, he was seldom without a pot of ale at his nose, or near him. That exercise was all he used; the rest of his life was sitting at his desk or piping at home; and

that home was a taylor's house in Butcher Row, called his lodging, and the man's wife was his nurse, or something worse; and being no changling he never removed, but was true to his friends, and they to him, to the last hour of his life.

"As to his parts, none had them more lively than he. Wit and repartee, in an affected rusticity, were natural to him. He was ever ready and never at a loss; and none came so near as he to be a match for Serjeant Maynard. His great dexterity was in the art of special pleading, and he would lay snares that often caught his superiors, who were not aware of his traps. And he was so fond of success for his clients that, rather than fail, he would set the court hard with a trick; for which he met sometimes with a reprimand, which he would wittily ward off, so that no one was much offended with him. But no ill-usage from the bench was too hard for his hold of business, being such as scarce any could do but himself. With all this, he had a goodness of nature and disposition in so great a degree that he may be deservedly styled a philanthrope. He was a very Silenus to the boys, as in this place I may term the students of the law, to make them merry whenever they had a mind to it. He had nothing of rigid or austere in him. If any near him at the bar grumbled at his stench, he ever converted the complaint into content and laughing with the abundance of his wit. As to his ordinary dealing, he was as honest as the driven snow was white; and why not, having no regard for money or desire to be rich? And for good nature and condescension there was not his fellow. I have seen him, for hours and half hours together before the court sat, stand at the bar, with an audience of students over against him, putting of cases and debating so as suited their capacities, and encouraged their industry. And so in the Temple he seldom moved without a parcel of youths hanging about him,

and he merry and jesting with them. . . . . In no time did he lean to faction, but did his business without offence to any. He put off officious talk of government or politics with jests, and so made his wit a catholicon or shield to cover all his weak places and infirmities. When the court fell into a steady course of using the law against all kinds of offenders, this man was taken into the king's business, and had the part of drawing, and perusal of almost all indictments and informations that were then to be prosecuted, with the pleadings thereon if any were special."

Though the language of this picture might be varied, its effect cannot be heightened. Sometimes he is to be found acting for the defence in government prosecutions; as for Mr. Price in 1680 when indicted for attempting to suborn one of the witnesses to the popish plot; and for the five popish lords charged with high treason, of whom only Lord Stafford was tried. In 1681 he was counsel for the crown against Edward Fitzharris, and against Lord Shaftesbury; and in 1682 for the Earl of Danby, on his application to be bailed. In that year he was elected a bencher of his inn; and on January 13, 1683, he was suddenly raised to the chief justiceship of the King's Bench and knighted. This elevation he owed, it is said, to the doubt which the court entertained whether Chief Justice Pemberton was sufficiently devoted to it to carry out the great object which the king then contemplated of obtaining a forfeiture of the charters of the city of London, and to the certainty felt that Saunders, who had advised the proceedings and settled all the pleadings, would, if placed in that office, decide against the corporation. The case was argued before him, and, though he was on his death-bed when judgment was pronounced, the other judges united in declaring that he agreed with them in decreeing the forfeiture. In the interval Saunders presided at the trial of the sheriffs of London and others for a riot at the

election of new sheriffs, but he died between the conviction and the sentence.[1]

The habits of his life were necessarily changed by his promotion; his diet was altered, his labour incessant, and his anxiety greater. His constitution consequently, which had been much damaged by his former intemperance, soon utterly gave way. Before he had been six months on the bench he was seized with apoplexy and palsy, and died on June 19, 1683, at his house on Parson's Green, whither he had removed on becoming chief justice. By his will he makes Nathaniel Earle and Jane his wife (his host and hostess in Butcher Row) his residuary legatees, "as some recompense for their care of him, and attendance upon him, for many years."

"While he sat in the court of King's Bench," says Roger North, "he gave the rule to the general satisfaction:" and it is universally allowed that he was abundantly versed in the mysteries and technicalities of law. His reports, printed after his death, extend from 1666 to 1672, and are esteemed for their simplicity and precision. They are composed in so dramatic a form that Lord Mansfield called him the Terence of reporters. They have passed through five editions, the last of which, edited by Patteson and Williams (both afterwards judges), was published in 1824.

SCROGGS, WILLIAM.

JUST. C. P. 1676. CH. K. B. 1678.

THE last four of the chief justices of the King's Bench in the reign of Charles II., Scroggs, Pemberton, Saunders, and Jeffreys, may be cited as remarkable proofs of the general profligacy of the period, each having been elevated to his high position notwithstanding the notorious looseness of his early life. The obloquy which is attached to the name of

[1] State Trials, vii. 906, 1242, viii. 270, 779, 1039, *et seq.*, ix. 226, xi. 831.

the first of these chief justices may serve as a warning to every man to avoid obsequiousness to those from whom favour flows. An apostate, from party spirit, ambition, or personal interest, to principles he had once strongly advocated, will ever be repudiated by both parties and defended by neither. If there are any good points in his character they will be misconstrued or misrepresented; and if there is the least blot in his escutcheon he will be sure to have

> "all his faults observed,
> Set in a note-book, learn'd and conned by rote,
> To cast into his teeth."

Such was the fate of Sir William Scroggs, whose extravagant zeal for each of the contending parties, as he supposed one or the other to be in the ascendant, led to the usual consequence,—his fall between both;—his name being blackened so universally that scarcely any writer shows the slightest tenderness to his memory, except Anthony Wood in his "Athenæ Oxonienses" (iv. 115). Even his lineage does not escape calumny, and his reputed low birth, which in the height of his popularity would be mentioned to his credit, is blazoned as an addition to his disgrace when the tables are turned.

How true Sir William Dugdale's assertion that his father was "a one-eyed butcher near Smithfield Bars, and his mother a big fat woman with a red face like an ale-wife," may be, can only be collected from the fact that the squibs written against the chief justice made perpetual allusion to his father's business, and from the failure of any account of his ancestors or family. A. Wood says that his father was of the same name, and that he was born at Deddington in Oxfordshire. But in whatever business his father had been engaged it is clear that he was a man of some intelligence, and must have acquired a comfortable fortune, inasmuch as

he showed his desire and his power, to give his son a good education by sending him to the University of Oxford. Entered at first at Oriel College in 1639, when at the age of 16, he soon after removed to Pembroke College, where he took the degree of B.A. in 1640, and of M.A. in 1643. Anthony Wood says that he was intended for the church, and that his father had procured for him the reversion of a good parsonage; but that having fought for the king in 1648 as a captain of foot, he changed his purpose and entered himself as a student of law. But the latter profession must have been chosen before the troubles began, for his admission to Gray's Inn is dated February 22, 1640. His call to the bar however did not take place till June 27, 1653, the delay perhaps arising from the disturbed state of the country, during which he probably wavered in his choice. His first recorded appearance in court is in the upper bench in Trinity, 1658[2]; and though his name does not frequently occur in the subsequent reports he was enabled about 1662, either by his practice or his patrimony, to purchase the estate of Southweald in Essex, which had formerly had Lord Chancellor Rich and Lord Chief Justice Anthony Browne for its owners.[2]

A bold front, a handsome person, an easy elocution, and a ready wit, are strong recommendations for a young barrister. The possession of these introduced Scroggs to some connections at court, who would not be scandalised by the irregularity of his life. He is described as a great voluptuary and debauchee, and so noted for the coarseness of his language and the looseness of his habits, as to be despised by all good and respectable men. About this time he became counsel for the City of London; and by the profession of excessive loyalty, together with his interest at court, he

[1] Athen. Oxon. iv. 115; Fasti, i, 50, ii. 578; 2 Siderfin, 97.
[2] Morant's Essex, i. 111.

obtained the honour of knighthood. He is designated by his title in a petition which he preferred in April 1665, alleging that, it being his duty to walk before the lord mayor on certain days of solemnity, but being unable to do so from wounds sustained in the cause of the late king, he had been therefore suspended from his place, and praying redress.[1] We may easily imagine that this was not the real cause of his suspension. The result is not stated; but we find him in April 1668 assigned as counsel for Sir William Penn; and in June 1669 summoned to take the degree of the coif; and in the very next term promoted to be king's serjeant.[2] Roger North perhaps speaks too strongly when he says that Chief Justice Hale detested him; but that estimable judge could have little regard for a man of Scroggs' character. Being arrested on a King's Bench warrant for assault and battery, the chief justice and the whole court refused him the privilege of a serjeant, on the ground that the proceeding was not against him only, but against him and another.[3]

Lord Danby was his principal patron; and to his influence Scroggs entirely owed his next advances, as he had no reputation in his profession. On October 23, 1676, the seat on the bench of the Common Pleas, from which an able judge, Sir William Ellis, was removed (perhaps for the very purpose), was given to him; and nineteen months afterwards another judge, Sir Richard Rainsford, was discharged to make way for him as Lord Chief Justice of the King's Bench, to which he was appointed on May 31, 1678. The reports are so silent as to his previous professional career that the three years during which he presided in this court may be almost said to contain the whole history of his legal life. It presents such a combination of ignorance, arrogance,

[1] Cal. State Papers, 1664-5, p. 310.
[2] North's Lives, 151; State Trials, vi. 876; 1 Siderfin, 435.
[3] 2 Levinz, 129; 3 Keble, 424; 1 Freeman, 389; 2 Modern, 296.

and brutality, as fully to justify the censure almost universally pronounced upon the judicial appointments of the latter part of this reign.

The popish plot was first started soon after his advancement, and from a mistaken idea of the inclinations of the court he thought he should be doing an acceptable service to the king by taking a strong part against the supposed participators in it, at the same time that he was ensuring for himself an immense popularity amongst its deluded believers. When the infamous promoters were detailing their narrative before the Commons he was sent for, and, in reply to the speaker, declared he would use his best endeavours, for he feared the face of no man where the king and country were concerned.[1] Withdrawing into the speaker's chamber, he took the informations, issued his warrants, and threw himself at once into the ranks of its most zealous advocates. On the trials he gave public credit to the testimony of the witnesses, explained away their palpable contradictions, browbeat and threatened those who came forward with opposing evidence, inflamed the juries, who were too ready to act on his suggestions, and barbarously insulted the unfortunate victims. Even in the first state trial before him, that of Stayley, he had the inhumanity to call out to the prisoner on the verdict of guilty being pronounced, "Now you may die a Roman Catholic, and when you come to die, I doubt you will be proved a priest too." On another occasion he exclaimed to three convicted prisoners, "and now much good may their thirty thousand masses do them." The seventh volume of the "State Trials" is almost wholly occupied with those arising out of the popish plot, in which Titus Oates, William Bedlow, and the chief justice so infamously distinguished themselves.

In the trials of Coleman, of Ireland and two others, of

[1] Autobiog. of Sir J. Bramston (Camden Soc.), 179.

Reading, of Whitehead and four others, and of Langhorn (whom he afterwards acknowledged to be innocent), he pursued the same course: but in the next, that of Sir George Wakeman and three others, there was a sudden alteration. He there threw discredit on the witnesses he had before encouraged, pointing out their several contradictions, and though the evidence was much the same as that by which the others had suffered, summed up in such a manner as to obtain an acquittal. The former trials had extended from November 20, 1678, to June 14, 1679; that of Wakeman occurred on July 18 following; and "the occasion of the judge's conversion," Roger North says, "was this. The lord chief justice came once from Windsor with a lord of the council (Chief Justice North) in his coach; and among other discourse, Scroggs asked that lord, if the Lord Shaftesbury (who was then lord president of the council) had really that interest with the king as he seemed to have? No, replied that lord, no more than your footman hath with you. This sank into the man, and quite altered the ferment, so as from that time he was a new man."[1] Luttrell tells us that gross bribery with Portugal gold was said to have influenced him on this trial; but the result was that he at once lost the popularity which he so eagerly sought, and instead of the applause he had been accustomed to receive, he was on one side daily assailed with abuse and lampoons, in which he was commonly designated by the nickname of "Mouth,"—

> "their work is done,
> Down must the patriots go, and Mouth must run,"—

while his gross partiality and brutal conduct in the former trials were exposed on the other. In addition, he had raised two inveterate enemies, the witnesses Oates and Bedlow,

[1] State Trials, vi. 1501, vii. 1, 79, 159, 231, 311, 426, 591; Examen, 568.
[2] Luttrell's Diary, i. 17–19, 74; State Poems (1704), iii. 214.

who, not having yet lost their power and being still believed by the multitude, were not so easily cowed. As the parliament which had supported all their inventions had been dissolved, they exhibited before the king and council "articles of high misdemeanors" against the chief justice, charging him with browbeating them, depreciating their evidence and misleading the jury; also with setting at liberty several persons charged with high treason, with imprisoning loyal subjects for printing books exposing the errors of popery and refusing to take bail, and with various other things tending to the disparagement of the witnesses, and the encouragement of Roman Catholics; to which they added charges against the chief justice of cursing and swearing, drunkenness, and corruption in the sale of licenses to print the different trials. To all these charges Scroggs, not having the fear of parliament before him, answered with contemptuous impudence, and on the hearing before the king and council on January 1680, ran down his accusers with such severity and wit that the complaint was dismissed.

The chief justice's triumph was not of long duration. A new parliament met towards the end of the year, and the attack against him was renewed before a more willing audience. He and the other judges of the King's Bench had in the previous Trinity Term defeated an intended presentment against the Duke of York for not going to church, by suddenly discharging the grand jury. This the Commons made the principal ground of impeachment, adding similar charges to those before made, and another for issuing illegal warrants to a messenger of the press. On carrying the impeachment to the upper house in January 1681, the peers refused to commit the chief justice, or to address the king to suspend him from the execution of his office. This parliament being dissolved a few days after, on the meeting of the new parliament at Oxford in the following March,

Scroggs put in his answer which was merely a plea of not guilty; but a dissolution also of this parliament, the last in Charles's reign, before the end of the month put a stop to the proceedings. The king however felt that prudence required the removal of a judge so universally obnoxious, and accordingly Sir Francis Pemberton was appointed on April 11 to fill his place. His dismissal was made as easy to him as possible, being accompanied with a pension of 1,500*l.* to himself, and a patent of king's counsel to his son, also Sir William.

After a retirement of two years and a half he died on October 25, 1683, of a polypus in his heart, and was buried in Southweald Church. By his wife, a daughter of Matthew Black, Esq., he left a son, the above Sir William, and two daughters, one of whom was married to Sir Robert Wright, the notorious chief justice in the next reign; and the other to a son of Lord Hatton.[1]

SHAFTESBURY, EARL OF. *See* A. A. Cooper.

SPELMAN, CLEMENT.

Curs. B. E. 1663.

Sir Henry Spelman, the father of this baron of the Exchequer, was the grandson of Sir John, the judge of the King's Bench in the reign of Henry VIII. He married Alienora the eldest daughter and coheir of John Le Strange of Hunstanton in Norfolk, of which county he became high sheriff. Knighted by King James I. for his public services he devoted the last thirty years of his life to those studies, and the production of those works, which have established his reputation as one of the most learned antiquaries this

[1] State Trials, viii. 163—223; Parl. Hist. iv. 1224, 1261, 1274; North's Examen, 80, 206, 567; Lives, 151; Burnet, 448, 468.

country ever produced. He died in October 1641, leaving four sons and four daughters, and was buried in Westminster Abbey.

Clement Spelman, the youngest of these sons, was admitted a pensioner of Queen's College, Cambridge, on September 16, 1616. Being destined for the law, he had been previously entered at Gray's Inn, the school in which his great-grandfather had studied, so early as March 20, 1613; but was not called to the bar till 1624. As his name never occurs in the reports of the time he probably devoted himself to literary pursuits, and assisted his father in his antiquarian inquiries; for to the Oxford edition (1646) of Sir Henry's treatise "De non temerandis Ecclesiis," he wrote a large preface containing many things relating to impropriations and several instances of the judgments of God upon sacrilege. In 1647 he published anonymously "Reasons for admitting the King to a personal treaty in Parliament and not by Commissioners;" and in the next year, "A Letter to the Assembly of Divines concerning Sacrilege." These works, and the active assistance he gave to the king in 1648, are evidences sufficient that he was a decided royalist.

In connection with the law, he is stated to have been one of the performers in 1635 in a masque called the "Triumphs of Prince D'Amour," by Sir William Davenant, provided for the entertainment of Charles, the Elector Palatine, at the Middle Temple; but it is not clear how this could be, unless the Middle Temple borrowed assistance from Gray's Inn. Of the latter inn Spelman was made an ancient in 1638 and a bencher at the Restoration. At that time, A. Wood says, on the authority of Dugdale, that Spelman published a "Character of the Oliverians," which he intimates is the same as "The Mystery of the Good Old Cause briefly unfolded in a Catalogue of such Members of the late Long Parliament, who held offices both civil and military, &c."

which will be found at the end of the third volume of "Hansard's Parliamentary History."

His loyal services were rewarded by the appointment of cursitor baron of the Exchequer on March 9, 1663; an office which he occupied till March 1679. He died in the ensuing June, and was buried in St. Dunstan's Church in Fleet Street.[1]

STREET, THOMAS.

B. E. 1681. Just. C. P. 1684.

See under the reign of James II.

THURLAND, EDWARD.

B. E. 1673.

This judge, according to the inscription on his monument, was descended from the ancient family of Thurland of Thurland Castle in Nottinghamshire. His great-grandfather was Thomas Thurland of Gameston Hall in the same county, whose third son Gervase, a merchant in London, was the father of Edward, who, by his marriage with Elizabeth, daughter and one of the coheirs of Richard Elyot of Reigate, became a resident in that town, and was "vice comes," or undersheriff, of Surrey in 1623.[2] Their eldest son, Edward, the future judge, was born there in 1606; but no account of his education remains till his admission on October 20, 1625, to the Inner Temple, where he was called to the bar on October 15, 1634. He was returned member for his native town to the short parliament that met in April 1640; but, luckily perhaps for him, was not re-elected for that which was summoned in the following November, so notorious in the annals of the kingdom. That he had made good use of his time, and was a proficient in the law, is shown by his

[1] Athen. Oxon. iii. 807, iv. 8; Notes and Queries, 3rd Series. v. 152.

[2] Harl. MS. 1433, fol. 40; Addit. MSS. 12,478, fol. 2, 4963, fol. 40.

being made steward of the manor of Reigate; his charge to the jury of which in August 1644 is preserved in Manning and Bray's Surrey, i. 295. His intimacy with Jeremy Taylor and John Evelyn is a sufficient evidence of his pious and exemplary life, the correspondence between them exhibiting the friendly and confidential terms in which they lived, and the latter entrusting him with the stewardship of his courts. He composed a work on prayer, which he sent to Evelyn, who strongly recommended its publication; but it does not appear whether it was ever issued from the press. In the healing parliament of 1660 he was again chosen representative for Reigate; for which town he was a third time returned to the next parliament in 1661[1]; but he did not take an active part in either, nor indeed did he trouble himself much with politics.

Soon after the Restoration he was elected recorder of both Reigate and Guilford, and was selected by James, Duke of York, as his solicitor, being thereupon knighted. In 1662 he became autumn reader of his Inn of Court, having been called to the bench of that society on November 24, 1652. From this time his name appears very frequently in the reports, till he was elevated to the bench.

That promotion occurred on the death of Sir William Morton, when he was offered the vacant seat in the Common Pleas; but wishing for a more quiet place he contented himself with that of a baron of the Exchequer, to which, having received the coif a few days before, he was appointed on January 24, 1673. To this preference the chancellor Lord Shaftesbury alluded in his speech at the inauguration of the new baron. The king, he said, "designed to place you in a court of more profit, though not of more dignity; but your own modesty hath chosen this court, where you thought you could serve the king best;" adding this excellent advice:

[1] Evelyn's Memoirs, ii. 302, 410, iv. 5, 22, 26, 39; Parl. Register, 210.

"Let me recommend to you so to manage the king's justice and the revenues, as the king may have most profit, and the subject less vexation. Raking for old debts, the number of informations, projects of concealments, I could not find (in the eleven years' experience I had in this court) ever to advance the crown; but such proceedings have, for the most part, delivered up the king's good subjects into the hands of the worst of men, clerks of the court, custom-house officers, and excisemen." After sitting six years he arrived at that age when his growing infirmities warned him to prepare in quiet for meeting his last moments. He therefore tendered his resignation and received his discharge on April 29, 1679.[1] He retired to his mansion at Reigate where he died on December 19, 1682, aged seventy-six, and where his monument records the honourable character he maintained through life.

By his wife Elizabeth, daughter of —— Wright of Buckland in Surrey, he left an only son, Edward, also brought up to the law, who died five years after his father without issue. A nephew, another Edward, who died in 1731, is described on his monument at Reigate as "ultimus antiquæ stirpis masculus."[2]

TURNOR, CHRISTOPHER.

B. E. 1660.

THIS quiet and unpretending judge was the eldest son of Christopher Turnor, Esq., of Milton-Erneys in Bedfordshire, by Helen daughter of Thomas Sarn, Esq., of Printon, Hertfordshire. He was born on Dec. 6, 1607, and was educated at Emmanuel College, Cambridge, to which in after life he contributed a liberal donation towards rebuilding its chapel. He took the degrees of B.A. and M.A. in 1630 and 1633;

[1] T. Jones' Rep. p. 34; Raleigh Redivivus, 80; Crown Off. Minute Bk.

[2] Harl. MSS. 1480, fol. 37; Manning and Bray's Surrey, i. 325, ii. 498.

and having been at the age of nineteen admitted a student at the Middle Temple, was called to the bar in November 1633, and arrived at the bench of that society in November 1654. His name does not frequently appear in the reports, and he is not mentioned as taking any prominent part in the troubles. But that he had a fair legal reputation is manifest from his being selected as a judge at the Restoration, his patent as third baron of the Exchequer being dated July 7, 1660. He was thereupon knighted. On his first circuit he refused to try three persons indicted for murder in Gloucestershire, for the very sufficient reason that the body had not been found. His successor on that circuit at the next assize, Sir Robert Hyde, not influenced by the same consideration, condemned and hanged the prisoners, whose innocence was some years afterwards established by the reappearance of the man supposed to have been murdered.

A gossiping letter preserved in the state paper office, dated in March 1661, relates that "Judges Atkins and Turner, who went on the midland circuit, are taken ill, the latter struck blind and deaf." It adds that "it is thought a judgment for their severe conduct to poor honest men." As no other record of the severity of the two judges appears, we may hope that it existed only in the writer's imagination. The visitation on Sir Christopher, if at all true, was only temporary, for he continued to perform the duties of his office during fourteen subsequent years. His death occurred in 1675, and his remains were deposited at Milton-Erneys.

By his wife Joice, sister of Sir William Warwick, secretary of the treasury, he left several children, the descendants of whom still flourish at Stoke-Rochford in Lincolnshire.[1]

[1] Middle Temple Books; Gent. Mag. lii. 69; 1 Siderfin, 3; State Trials, xiv. 1318; Cal. State Papers, 1660–1, 539; Burke.

TURNOUR, EDWARD.

CH. B. E. 1671.

TURNOUR, Turnor, or Turner, as it is variously spelled, is the name of a family which is said to be derived from a Norman, who was one of the rewarded warriors of William the Conqueror. His descendants were long-seated at Haverhill in Suffolk, where Edward Turnour the grandfather of the chief baron had his residence. He as well as his three immediate descendants studied the law at the Middle Temple, each acquiring professional eminence.[1] Edward, the grandfather, was a bencher in the time of James I.; Arthur, the father, was a serjeant in the next reign; Edward, now to be noticed as chief baron; and Edward, his son, who was knighted and represented Orford in Suffolk for many years in parliament.

Arthur, the serjeant, was seated at Little Paringdon in Essex, and married Ann, daughter of John Jermy of Gunton in Norfolk, by whom he had several children, the eldest being the future chief baron. He was born in 1617 in Threadneedle Street, at the house of his uncle Sir Thomas Moulson, lord mayor of London. Educated first under Dr. Goodwin, author of the "Antiquities of Rome," at the free-school at Abingdon, and next at Queen's College, Oxford, he was on October 30, 1633, admitted to the Middle Temple; and being called to the bar on June 19, 1640, became bencher on June 29, 1660, and afterwards treasurer. During the twenty years that intervened there is no other account of him than that he was elected steward of Hertford in 1648.[1]

He represented Essex in Cromwell's second and third parliaments, and in that of 1658, called by the protector Richard; but that he was but a moderate republican, and

[1] Biog. Peerage, iv. 85; Athen. Oxon. 1060; Manning's Speakers, 354.

veered at last to the side of monarchy, is apparent from his being returned member for the same county to the Convention Parliament of April 1660, and from his being knighted immediately on the Restoration; and that he was well reputed as a lawyer may be concluded from his being engaged as counsel for the king in the trials of the regicides, particularly in those of Harrison and Cook, and from his being made solicitor, and afterwards attorney to the Duke of York. Being again returned to the parliament of May 1661, as member for Hertford, he was elected speaker; and his speeches on this and subsequent occasions, though not without some touch of eloquence, are remarkable for their excessive adulation and their amusing reference to sacred and profane history.[1] In December 1663 he had a grant of 2000*l.* as a free gift, and another of 5000*l.* in July 1664. This parliament lasted for nearly eighteen years, during which there were no less than four speakers; Sir Edward Turnour for twelve years, Sir Job Charlton for little more than twelve days, Sir Edward Seymour for five years, and Sir Robert Sawyer for the remaining months. The speakers at that time were always attended by the mace, even during the adjournment of the house; and, being lawyers, forbore to practise. In 1668, the king having adjourned the parliament for a longer time than usual (they did not meet for eighteen months), Sir Edward was naturally anxious to be freed from that formality and interference with his professional pursuits; but on his application to be released from it the commons declared that he ought to be attended by the mace as in time of shorter adjournments. But having on May 11, 1670, during a six months' adjournment of the ninth session, received the appointment of solicitor-general to the king, it must be presumed that the above vote did not forbid

[1] State Trials, v. 1015, 1103; Parl. Hist. iii. 1429, 1480, 1532, iv. 200-448; Burton, iv. 431.

his practising. When the parliament met in October he resumed the chair, but according to Roger North he had lost much of his former credit and authority in consequence of having received a small present, in other words a bribe, from the East India Company.[1]

The session was terminated by a prorogation in April, 1671; and on the 23rd of the next month Sir Edward was removed from the chair of the House of Commons to the seat of chief baron of the Exchequer (having been made a serjeant four days before), an elevation somewhat extraordinary for a man suffering under such an imputation. No complaint however has been made of his presidency, which lasted only four years. He died while on circuit at Bedford on March 4, 1676; and after laying in state for some days at his house in Chancery Lane, he was buried in the chancel of Little Paringdon Church.

He seems to have been prouder of his oratory than his law, for his publications were confined to his speeches. Of his two wives, the first was Sarah daughter and heir of Gerard Cole, alderman of London; the second, Mary daughter and heir of Henry Ewer of South Mimms, Middlesex. By the first he had several children, the eldest of whom was Sir Edward, before mentioned, whose daughter Sarah was the grandmother of Edward Garth, who, succeeding to the estates, assumed the name of Turnour, and was in 1761 created baron, and in 1765, Earl of Winterton in Ireland.[2]

TWISDEN, THOMAS.

JUST. K. B. 1660.

THE family of Twysden is one of the most ancient in the county of Kent, and can be traced from the reign of

[1] Parry's Parliaments; Roger North's Lives, 52.

[2] Manning and Bray's Surrey, ii. 7; Biog. Peerage, iv. 85.

Edward I., when it possessed a manor of that name in the parish of Sandhurst. Its representative in the reign of Henry IV. acquired by marriage the manor of Chelmington in Great Chart, which became his residence and that of his descendants until the time of Henry VIII., when William Twysden by his marriage with Elizabeth, one of the daughters and coheirs of Thomas Roydon, came into possession of Roydon Hall in East Peckham; thence the chief seat of the family. This William was the grandfather of Sir William Twysden, the first baronet, who was gentleman-usher of the privy chamber to James I., and was celebrated for his learning, and as the collector of a valuable library. By his marriage with Anne the eldest daughter of Sir Moyle Finch of Eastwell, Bart., he had five sons, through the eldest of whom, Sir Roger Twysden, renowned as much for his antiquarian and constitutional learning as for his loyal and exemplary life, the title has descended to the present time.[1] The career of Sir William's second son, Thomas, who on establishing a new family altered the usual spelling of his name from Twysden to Twisden, in order to distinguish the two branches, is now to be recorded.[2]

Thomas Twisden was born at Roydon Hall on January 8, 1602. He became a fellow commoner of Emmanuel College, Cambridge, to the rebuilding of the chapel of which he afterwards was a liberal contributor. The law being chosen for his profession, he does not appear to have taken any degrees, but was admitted a member of the Inner Temple on August 31, 1618, and was called to the bar on May 21, 1625. He was not raised to the bench of the society till November 5, 1646; but long before that time he

[1] Wotton's Baronet. i. 211; Hasted's Kent, v. 96.

[2] For many of the dates and facts in this sketch, I am indebted to the Rev. Lambert B. Larking, who, with his usual liberality, has opened his splendid collections for my use, containing various memoranda in the judge's own hand-writing.

was in full employment as an advocate, his name appearing in the reports of Croke, Styles, Aleyn, &c. After the death of Charles, Siderfin mentions him frequently, and it is evident he acquired much eminence in his profession, as Cromwell in Hilary Term, 1654, called him to the degree of serjeant, a dignity which he says he accepted "animo reluctante." In the next year Cony's case arose. This gentleman had been illegally imprisoned for refusing to pay certain customs imposed without any authority but the Protector's dictum. He either brought an action for false imprisonment, or sued out his habeas corpus (for the accounts differ), and he employed Serjeants Twisden, Maynard, and Wadham Wyndham as his counsel. Their advocacy was so effective that they were tyrannically silenced by being sent to the Tower, from which they did not get release till they petitioned the Protector. Ludlow abuses them for thus submitting; forgetting that their resistance at that time could have been beneficial neither to their client nor to the country, and that, so all-powerful was Cromwell, even Chief Justice Rolle did not dare to oppose him, but resigned his office before the next term.[1]

Twisden, like the rest of his family, was a staunch loyalist; and that his wife shared in his feelings is apparent from a letter addressed to her by Charles II. in 1650, in which, after stating that he has assurance of her readiness to perform his desires, he gives her directions as to the delivery of "the George and Seals," according to her "brother's promise" to "his blessed Father." This lady, whom Mr. Twisden married at Roydon Hall in December 1639, was Jane, daughter of John Tomlinson, Esq., of Whitby in Yorkshire; and the brother alluded to was Matthew Tomlinson, a colonel in the parliamentary army, under whose charge Charles I. was placed during the time of his trial,

[1] Ludlow, 223; Clarendon, vii 296; Harris's Lives, iii. 446.

and on the day of his execution. Unlike others about the king he treated him with kindness and civility. This considerate conduct was gratefully acknowledged by his majesty in his last moments, when he presented the colonel with his gold toothpick and case as a remembrance, and entrusted him with the George and Seals to be transmitted to his son. Though Tomlinson was afterwards one of Cromwell's peers, and a commissioner for the management of Irish affairs, he reaped at the restoration "the effect and fruit" of his generous treatment of the fallen monarch, by being called as a witness on the trial of the regicides, instead of being arraigned as an accomplice in their guilt.[1]

The serjeant continued the practice of his profession through all the subsequent changes; and it may well be supposed that the king's return was gladly welcomed by him. Laying down the dignity which had been forced upon him by the usurper, he was legitimately invested with the coif a few days after; and at the end of the term, according to his own date on July 22, 1660, he was sworn in as one of the judges of the King's Bench, and knighted. He retained the office for the remainder of his life, but ceased to exercise its functions in October 1678, more than four years before his death; the king in consideration of his great age, or, as Noble says, from being too virtuous for the place he held [2], then excusing him from further attendance in court.

Though on the commission for the trial of the regicides, he took little part in it, the principal conduct being left to the lord chief baron, Sir Orlando Bridgeman: and in the trials of the fifth-monarchy men and Sir Henry Vane in the King's Bench, he is only mentioned as speaking on points of law. He was one of the judges in the harsh proceedings against George Fox and other Quakers for not taking the

[1] Evelyn (1827), v. 183; Whitelocke, 666, 693; State Trials, v. 1178.

[2] Noble's Cromwell, i. 438.

oath of obedience, and seems to have been somewhat puzzled to answer the arguments of the zealous disputants.[1]

Roger North (Examen, 56) gives an amusing account of an accident which befell the judge in Hilary Term, 1673.

"His Lordship (Lord Shaftesbury) had an early fancy, or rather freak, the first day of the term (when all the officers of the law, king's counsel and judges, used to wait upon the Great Seal to Westminster Hall) to make this procession on horseback, as in old time the way was when coaches were not so rife. And accordingly the judges were spoken to to get horses, as they and all the rest did by borrowing or hiring, and so equipped themselves with black foot-cloaths in the best manner they could: and diverse of the nobility, as usual, in compliment and honour to a new lord chancellor, attended also in their equipments. Upon notice in town of this cavalade, all the show company took their places at windows and balconies, with the foot guard in the streets, to partake of the fine sight, and being once settled for the march, it moved, as the design was, statelily along. But when they came to straights and interruptions, for want of gravity in the beasts, or too much in the riders, there happened some curvetting which made no little disorder. Judge Twisden to his great affright, and the consternation of his grave brethren, was laid along in the dirt; but all, at length arrived safe, without loss of life or limb in the service. This accident was enough to divert the like frolic for the future, and the very next term after they fell to their coaches as before."

The author speaks of this as the revival of an ancient custom; but it is one which could not have been long left off, for in October, 1660, only thirteen years before, Pepys (i. 116) says, "In my way I met the lord chancellor and all the judges riding on horseback and going to West-

[1] State Trials, vi. 74, 156, 206, 634.

minster Hall, it being the first day of the term." And Aubrey (ii. 386) fixes the date of its discontinuance at the death of Sir Robert Hyde in 1665.

Sir Thomas's health began to fail him in the year 1677, for in the great case of the Earl of Shaftesbury, who had applied for his release from imprisonment under an order of the House of Lords, he was absent at the argument, and deputed Justice Jones to declare his opinion that the Court of King's Bench had no jurisdiction.[1] In October of the next year he received his quietus in the honourable manner before related, being allowed to retain the title of judge with a pension of 500*l.* a year during the continuance of his life. He enjoyed the reputation of being a sound lawyer and an upright judge, though withal somewhat passionate, so that the contemporary reporters in recording his judgments begin "Twisden, *in furore*, observed," &c.[2] Having purchased Bradburn, a seat in East Malling in Kent, at a very early period, the king in June 1666 conferred on him a baronetcy of that place. There he died on January 2, 1683, and was buried under a monument in the church of that parish. He was the father of eleven children, five sons and six daughters; but the baronetcy, after being enjoyed by seven of his descendants, became extinct in 1841.

TYRRELL, THOMAS.

JUST. C. P. 1660.

See under the Interregnum.

THOMAS TYRRELL was one of the military lawyers of the Commonwealth. He was the third son of Sir Edward Tyrrell of Thornton in Buckinghamshire, a knight of very ancient family (descended from that Sir Walter who shot William II. in the New Forest), by his second wife

[1] State Trials, vi. 1297. [2] Lord Campbell's Chief Justices, i. 559

Margaret, daughter of Thomas Aston of Aston in Cheshire, and relict of Thomas Egerton of Walgreve. Sir Edward, by his first wife Mary, daughter of Benedict Lee, Esq., of Huncote, Bucks, had a son also named Edward, who obtained a baronetcy in 1627, which became extinct at the death of the eighth possessor of the title in 1749.

Thomas, who was born about the year 1594, began his legal career at the Inner Temple, where he was admitted on June 1, 1613, and called to the bar on November 13, 1621. His military career began in May 1642, when he accepted the office of deputy lieutenant of his native county under Lord Paget; having Hampden and Whitelocke among his colleagues. He soon after received a commission as colonel in the parliament army; but nothing is recorded of his prowess, except that in a quarrel that arose in Westminster Hall between him and Sir William Andrews, in April 1645, he "behaved himself discreetly," and was called into the house and thanked "for his carriage therein." Pleased perhaps with the flattering expressions addressed to him, be became desirous of entering the parliament as a member, and four months after an urgent application was made to Whitelocke to get him returned for Bucks at a contemplated election; but in this he did not succeed. During the next thirteen eventful years history makes no mention of him, though probably he resumed his practice at the bar; but at the end of them he was returned to Protector Richard's parliament of January 1659, as member for Aylesbury, the principal town in his native county. In that short session the colonel took an active part in all questions connected with the law, and sat as chairman of the Committee of Grievances and Courts of Justice.[1] On the dissolution of the parliament and the consequent expiration of Richard's power, the Long Parliament met again; and

[1] Whitelocke, 58, 144, 167; Burton's Diary, iv. 1, 126, &c.

soon after its revival, dismissing the late commissioners of the Great Seal because they were members of the House, they committed its custody to Tyrrell in conjunction with Bradshaw and Fountaine on June 4 for a period of five months.

On the 13th he was called to the bench of his inn of court, being designated "Thomas Lord Tyrrell;" and on the 16th the parliament made him a serjeant at law. The three commissioners held the Seal till November 1, when the army having again prevented the House from meeting, nominating a Committee of Safety, it was transferred to Whitelocke as sole keeper. When the Long Parliament was again permitted to sit, Tyrrell was restored on January 18, 1660, with Fountaine one of his former colleagues and Sir Thomas Widdrington. The Convention Parliament, soon after summoned (to which Tyrrell was returned as member for his county), caused Charles II. to be proclaimed on May 7; and at the same time named the Earl of Manchester, the Speaker of the House of Lords, as another commissioner of the Seal; which was retained by all four till it was ordered to be defaced just before the return of the king. When that event took place Tyrrell was considered to have acted with so much discretion that he was confirmed in his degree of the coif, and on July 27 was advanced to the bench as a justice of the common pleas, and knighted.[1]

King Charles in 1663 granted him in fee the estate of Castlethorpe, in Bucks, where he died on March 8, 1671-2, at the age of 78, and in the church of which he was buried under a stately monument with his effigy in robes and coif. He married thrice; but the names of two of his wives only are known, the first and the third: viz. a daughter of — Saunders, of Buckinghamshire, and Bridget, one of the daughters of Sir Richard Harrington, of Ridlington, Rutland, Bart., thus becoming the brother-in-law

[1] Whitelocke, 680, 686, 693, 700; Journals; 1 Siderfin, 3.

of his colleague John Fountaine. By his first wife he had, besides daughters, two sons, Thomas and Peter, the latter of whom married a daughter of Carew Raleigh, eldest surviving son of Sir Walter Raleigh, and was created a baronet during his father's life in 1665; but the title became extinct in 1714.[1]

VAUGHAN, JOHN.

CH. C. P. 1668.

CAMBRIAN genealogists trace the family of Sir John Vaughan as high as the founder of one of the noble tribes of Wales, and state the property of Trowscoed in Cardiganshire to have been in possession of his forefathers for ten generations before he flourished. He was the eldest son of Edward Vaughan and Letitia his wife, the daughter of John Stedman, of Strata Florida in the same county; and was born at Trowscoed on September 14, 1603. After receiving the rudiments of his education at the King's School at Worcester, he was sent to Christchurch, Oxford, about 1618, and thence in 1621 to the Inner Temple. So many of the same names appear in the books of that society that it is difficult to give the precise date of his call to the bar. A. Wood states that he for some time devoted himself to the study of poetry and mathematics (a curious combination), until by his intimacy with the learned Selden he was led to apply himself to the law with so much zeal and industry that he soon established the character which he afterwards maintained. Besides the advantage which he derived from the friendship of Selden, he associated with Edward Hyde, the future chancellor, who, though giving him credit for his superior attainments, describes him as magisterial and supercilious in his humour and proud and

[1] Lipscombe's Bucks, iv. 89; Wotton's Baronet. ii. 77.

insolent in his behaviour. But as the chancellor at the close of his career believed that he had some reason to complain of Vaughan's ingratitude, the harshness of the picture might require a little softening, were it not that he is painted in the same colours by others of his contemporaries.[1] Though Hyde says "he looked to those parts of the law which disposed him to least reverence to the crown and most to popular authority," he proved his disgust at the violent measures taken by the Long Parliament to which he was returned as member for the town of Cardigan, by retiring from the scene at the very commencement of them. That assembly, therefore, treated him as a malignant, disabled him from sitting, and gave his library to John Glynn, then recorder and afterwards chief justice. He withdrew at the same time from the practice of his profession, and spent the twenty years that elapsed before the restoration in his own county, unharmed by the different rulers in the interval. The Mr. Vaughan named by Whitelocke among other members as prisoners to whom on December 12, 1648, "liberty was given upon their paroles," was either Charles or Edward Vaughan, two of the victims of Pride's Purge.[2]

In 1654 he acted as one of Selden's executors, and shared in the bequest of his estate with Sir Matthew Hale and Rowland Jewkes. They preserved his valuable collection of books, amounting to 8000 volumes, by presenting it to the Bodleian Library, where it was deposited in a noble room now generally known by the name of the Selden end.[3]

In the Convention Parliament of 1660 Vaughan was returned for Cardiganshire, and again sat for the same county in the first parliament called by Charles II. In the former he does not appear to have taken any part in the

[1] Athen. Oxon. iii. 1025; Clarendon's Life, i. 37; Pepys, ii. 408.
[2] Parl. Hist. ii. 628, iii. 1248; Whitelocke, 177, 361.
[3] Athen. Oxon.; Life, xxxvii. iii. 378.

debates, nor in the latter is his name mentioned in the Parliamentary History during the first six sessions. But in Burnet and Pepys he is noticed as taking a prominent part in opposition to the court, and is spoken of by the latter as "the great speaker." In 1667 the proceedings against the Earl of Clarendon took place, and were pressed with so much vehemence by Vaughan, that, considering his alleged intimacy with that nobleman in early life, and his subsequent professions of friendship and respect for him, it is somewhat difficult to account for his conduct.[1] The bill for Clarendon's banishment passed in December 1667, and in the following May Vaughan was raised to the judicial bench. How far the two events were connected with each other may admit a question. Sir Orlando Bridgeman, though made lord keeper in the previous August, had retained his office of chief justice of the Common Pleas ever since; but now, passing over the attorney and solicitor generals, Vaughan, though he had in fact retired from the practice of his profession, was selected to fill the place; and having been made serjeant on May 20, 1668, and knighted, he was appointed chief justice on the 23rd. He proved himself worthy of his promotion by the learning, discrimination, and judgment which he displayed during the period of his presidency. That did not extend beyond six years and a half, and was terminated by his death, which took place suddenly at his chambers in Serjeant's Inn on December 10, 1674. His remains lie in the Temple church, where there is a marble to his memory.

He has the credit of having put an end to the iniquitous practice of fining and imprisoning juries for not giving such verdicts as the court approved, by the famous judgment, concurred in by all the judges, which he delivered in the case of Bushell, who being imprisoned with the rest of his fellows, for acquitting Penn and Mead contrary to the

[1] Burnet, i. 225; Pepys, ii. 111, 125, 416; Parl. Hist. iv. 373, *et seq.*

opinion of the mayor and recorder at the Old Bailey sessions, had brought his habeas corpus. He was rather overbearing in his language and treated the ignorance of others with too much contempt. Even his colleagues on the bench did not escape. It is told of him that on the hearing of a cause in which ecclesiastical points arose, and the canon law being cited, two of the judges interrupted the argument, owning they had no skill in that law, and priding themselves on that account. On which the chief justice, lifting up his hands towards heaven, exclaimed, "Good God! what sin have I committed that I should sit on this bench between two judges who boast in open court of their ignorance of the canon law?"[1] To the evidence of his high character which the friendship of Selden gives, may be added the unwilling testimony of Lord Clarendon, who describes him (Life, 37) as "in truth a man of great parts in nature, and very well adorned by arts and books." Evelyn (ii. 293) calls him "a very wise and learned person;" Harris (v. 301) speaks of "his honesty and courage;" and his legal learning is proved by his reports on the special cases argued while he was chief justice, which were published by his son Edward three years after his death.

He married Jane, daughter of John Stedman of Kilconnin. His eldest son Edward succeeded him in the representation of the county and is highly spoken of by Burnet. He was the father of John Vaughan, who in 1695 was raised to the Irish peerage by the title of Baron of Fethers and Viscount Lisburne, titles to which the earldom of Lisburne was added in 1776.

WALCOT, THOMAS.

JUST. K. B. 1683.

See under the reign of James II.

[1] Vaughan's Reports, 135; Law and Lawyers, ii. 204.

WESTON, RICHARD.

B. E. 1680.

THE name of Weston is familiar to the bench. Three have already been recorded, two of whom were Richards. The fourth now to be noticed was also named Richard; but no trace of any family connection with the others has been found. Though entered at Corpus Christi College, Cambridge, in 1639, he took no degree. He is described in his admission to Gray's Inn on August 1, 1642, as the son and heir apparent of Edward Weston of Hackney, and having been called to the bar on November 26, 1649, he arrived at the post of reader to that society in Lent 1676. His arguments in court are reported by Sir T. Raymond from the year 1662, but it was not till 1677 that he attained the degree of the coif. He was made king's serjeant on February 5, 1678, and thereupon knighted; and two years after, on February 7, 1680, he was raised to the bench of the Exchequer in the place of Sir Thomas Raymond who was transferred from that court to the Common Pleas.

In the summer assizes after his appointment he had occasion to show his energy and independence as a judge by publicly checking the insolent forwardness of Sir George Jeffreys at Kingston, in browbeating, as his manner was, the other side in their examination of witnesses. On being told by the judge, after some words had passed between them, to hold his tongue, Jeffreys declared he was not treated as a counsellor, being curbed in the management of his brief. "Ha!" returned the baron, "since the king has thrust his favours upon you in making you Chief Justice of Chester, you think to run down everybody; if you think yourself aggrieved, make your complaint;—here's nobody cares for it."[1] This rebuff shows plainly how well the

[1] Woolrych's Life of Sir Geo. Jeffreys, p. 65.

bench and the bar understood Jeffrey's character. It is not improbable that the malice it engendered in Jeffrey's mind was the real cause of the complaint made against Baron Weston in the next parliament. In December the commons voted an impeachment against him upon the extraordinary accusation that certain expressions used by him in his charge to the grand jury at Kingston on the same circuit were in derogation of the rights and privileges of parliament. He had inveighed against Calvin and Zuinglius and their disciples for their fanatical and restless spirit, and had said that "now they were amusing us with fears, and nothing would serve them but a parliament;" adding, "for my part I know no representative of the nation but the king; all power centres in him. It is true, he does intrust it with his ministers, but he is the sole representative; and, i'faith, he has wisdom enough to intrust it no more in these men who have given us such late examples of their wisdom and faithfulness." The dissolution of the parliament, however, took place before the impeachment was brought in, and the baron died before the next parliament had proceeded to business. As a high prerogative man, he was, according to Roger North, hated bitterly by the opposition, and was of course a great favourite with that writer, who relates of him that, while the other judges looked grave and solemn at this terrible sound of an impeachment, he was as gay and debonair as at a wedding, and was only sorry that he had not an opportunity of talking in the House of Commons, to have had his full scope of arguing his own case. Even Burnet speaks well of his courage in granting an habeas corpus to Sheridan, who had been committed by the House of Commons. His judicial career was a very short one, as he died on March 23, 1681, at his house in Chancery Lane.

Roger North gives some insight into his personal character. He describes him "a learned man, not only in the common

law, but in the civil and imperial law, as also in history and humanity in general; but being insupportably tortured with the gout became of so touchy a temper and susceptible of anger and passion, that any affected or unreasonable opposition to his opinion would influence him so as to make him appear as if he were mad; but when treated reasonably, no man ever was more a gentleman, obliging, condescending, and communicative than he was. Therefore, while a practiser, he was observed always to succeed better in arguing solemnly, than in managing of evidence; for the adversary knew how to touch his passions and make them disorder him, and then to take advantage of it. But at the bottom he was as just as the driven snow, and being a judge, for which office he was fit, because he had neither fear, favour, nor affection besides his judgment, he would often in his charges shine with his learning and wit." [1]

He married Frances, second daughter of Sir George Marwood, of Little Bushby, Bart.[2]

WILDE, WILLIAM.

JUST. C. P. 1668. JUST. K. B. 1673.

SIR WILLIAM WILDE was born about 1611. In his admission to the Inner Temple on February 19, 1629, he is described as the "son and heir apparent of William Wilde of Clifford's Inn, London, Gent." He was called to the bar on May 21, 1637; and became a bencher on November 24, 1652: but there is no other notice of him as a lawyer till he was elected recorder of London on November 3, 1659. That he was considered one of the moderate party may be presumed from his being returned as member for that city to the Convention Parliament that met in April 1660; from

[1] State Trials, viii. 191; North's Examen, 566; Burnet, i. 485.

[2] Dugdale's Visit. of Yorkshire, ed. Davies, 160.

his being knighted immediately on the king's return; from his being called to the degree of serjeant at the second call after the Restoration; and from his being further dignified with a baronetcy on September 13, in the same year. As recorder he was of course named on the commission for the trial of the regicides. On November 10, in the following year he was made one of the king's serjeants, which position, with that of recorder, he enjoyed until April 16, 1668, when he resigned the latter office on being appointed a judge of the Common Pleas. In that court he remained nearly five years; and then on January 22, 1673, was advanced to the King's Bench, where he sat as judge above six years more.[1]

On April 29, 1679, his patent was revoked at the same time as those of three other judges, viz. Vere Bertie, Thurland, and Bramston. Burnet says that Sir William Wilde, "a worthy and ancient judge," was turned out for his plain freedom in telling Bedlow, one of the witnesses of the popish plot, that "he was a perjured man, and ought to come no more into court, but go home and repent." In the preceding February, Green, Berry, and Hill, were tried for the murder of Sir Edmundbury Godfrey; and on the 16th of April Nathaniel Reading was tried for tampering with the king's evidence; the conviction on both trials being founded materially upon the evidence of Bedlow. Justice Wilde took an active part in each, pronouncing sentence of death in the former, and saying that the conviction of the latter was "a very good verdict." So that his discovery of Bedlow's false swearing and his use of the expressions recorded by Burnet must have happened between the 16th and the 26th of April.[2] He survived his dismissal only seven months, dying on November 23, 1679. He was buried in the Temple Church.

[1] 1 Siderfin, 4; Parl. Hist. iv. 4; T. Raymond, 217; T. Jones, 43.

[2] Burnet, i. 450; State Trials, vii. 222, 261.

He appears to have been well grounded in the law, and an honest and considerate judge. Sir Henry Yelverton's reports were published by him in French in 1661, when he was king's serjeant, and in English in 1674, when he was judge. His residence when recorder was in Great St. Bartholomew's Close, and afterwards at Lewisham, Kent, until he purchased the manor of Goldston, or Goldstanton, in Ash in the same county.

He married three wives. The name of the first is not recorded; that of the second was Jane, daughter of Felix Wilson of Hanwell in Middlesex; and the third was Frances daughter of John Berecroft of Chard in Somersetshire, who survived the judge till 1719 and was buried at Lewisham. He had a son by each of the two latter, but both dying without male issue the baronetcy became extinct on the death of the eldest, Sir Felix.[1]

WRIGHT, ROBERT.

B. E. 1684.

See under the reign of James II.

WYNDHAM, HUGH.

B. E. 1670. Just. C. P. 1673.

See under the Interregnum.

Sir John Wyndham, the uncle of Sir Francis Wyndham, judge of the Common Pleas in the reign of Elizabeth, was not only the progenitor of the two judges now to be recorded, Sir Hugh, and Sir Wadham Wyndham, but also of three baronetcies, all of which are now extinct. One of his grandsons, Sir Hugh of Pilsden Court, attained that honour in 1641, which died with him in 1663; another of his grandsons was the father of Sir Francis, of Trent, who in reward for

[1] Add. MSS. 5507, 65*; MSS. Coll. Arms, Townsend's Coll. xx. 3; Hasted's Kent, i. 503, xi. 196.

his services to Charles II. received the title in 1673, which became extinct on the death of the fourth baronet in 1719; and a third of his grandsons was the grandfather of Sir William, of Orchard-Wyndham, who obtained a baronetcy in 1661, which in 1750 merged into the Earldom of Egremont, and both titles failed in 1845.[1]

Hugh Wyndham was the sixth son of Sir John, of Orchard-Wyndham in Somersetshire, and of Felbrigge in Norfolk, knight (the grandson of the above Sir John), by Joan the daughter of Sir Henry Portman. He was born about 1603, and received his legal education at Lincoln's Inn, where he was admitted on March 19, 1622, and called to the bar on June 16, 1629. Though his practice as an advocate is not recorded, he had acquired in 1654 sufficient reputation as a lawyer to be dignified with the coif, and to be sent as a temporary judge on the northern spring circuit; and afterwards to be raised to the bench of the Common Pleas by Cromwell, notwithstanding his objection to act under the Protector's commission. Whitelocke states that he was appointed on May 30, 1654; but doubts have been entertained whether he entered upon his office at so early a period. These however do not seem to be well founded, since they arise only from another entry in the same author's memorials noticing that Serjeant Wyndham was made a judge on November 27, 1658. But this manifestly was merely his reappointment on the accession of Richard Cromwell to the protectorship, as in the preceding January and February he is named as one of the judges bearing a message from Cromwell's House of Lords to the House of Commons. In July 1659 and in January 1660, Whitelocke again records his appointment, the former being at the resumption of the Long Parliament, and the latter after the dissolution of the committee of safety and the rearrangement of the

[1] Wotton's Baronet. iii. 346; Collins' Peerage, iv. 401.

courts in consequence of the resignation of Chief Justice Glynne. There are no reports of the court of Common Pleas during the interregnum, by which greater certainty might be gained.[1]

The restoration of Charles of course put an end to Wyndham's judicial functions; but he was immediately confirmed in his degree of serjeant-at-law. In this character he resumed his practice, until eighteen months after the death of his younger brother, Judge Wadham Wyndham: when, on June 20, 1670, he was promoted to the bench as baron of the Exchequer, and received the customary honour of knighthood. In less than three years he was removed from that court, succeeding Sir William Wilde on January 22, 1673, as judge of the Common Pleas. In neither court did he particularly distinguish himself, not interfering much in those trials arising out of the popish plot in which he was among the presiding judges. He died at Norwich while engaged on the circuit on July 27, 1684, in his eighty-second year; having sat on the bench during the Commonwealth and since the Restoration, for twenty years. His monument at Silton in Dorsetshire (the manor of which he had purchased about the time of the Restoration) records the names of his three wives; viz. Jane, daughter of Sir Thomas Woodhouse of Kimberley, Norfolk, Bart.; Elizabeth, daughter of Sir William Minn of Woodcott, Surrey, and widow of Sir Henry Berkeley, of Wimondham, Leicestershire, Bart.; and Katherine, daughter of Thomas Fleming of North Stoneham, Hants, and widow of Sir Edward Hooper of Beveridge, Dorsetshire. By the first of these only he left issue; two sons who died young, and three daughters, one of whom was married to John Earl of Bristol.[2]

[1] Whitelocke, 591, 675, 681, 693; Burton's Diary, ii. 340, 438.

[2] 1 Siderfin, 3, 465; Dugdale; Hutchins's Dorset, ii. 145, 324.

WYNDHAM, WADHAM.

JUST. K. B. 1660.

THIS judge was the younger brother of the last-mentioned Sir Hugh Wyndham. He received his baptismal name from his grandmother, Florence, daughter of John Wadham, Esq., of Merrifield in Somersetshire, descended from a judge of the Common Pleas of that name in the reign of Richard II.

Wadham Wyndham was, like his brother, a member of Lincoln's Inn, to which society he was admitted on October 28, 1628, and was called to the bar on May 17, 1636. His name appears in several law reports during the time of the Commonwealth, and he was one of the advocates who were imprisoned for pleading the cause of Cony, as related in the life of Judge Twisden, and who, like him, could not procure his release until he had petitioned the Protector. Not receiving the coif under Cromwell's government, he was selected as one of the fourteen who were summoned to be serjeants a month after the Restoration, having been previously called upon to consult with the judges at Serjeants' Inn, Fleet Street, with respect to the proceedings against the regicides, he being one of the counsel engaged in the prosecution.[1]

At the end of these trials he was, on Nov. 24, 1660, promoted to be a judge of the King's Bench; in which court he sat for eight years. During the whole of that time, according to the evidence of his contemporaries, he maintained a high character for learning and impartiality. Siderfin says of him that he was of "great discretion, especially in his calm and sedate temper upon the bench;" that he was "in all respects well qualified for the place;" and that he held it for several years "to the great satisfaction of those at

[1] 1 Siderfin, 4; Kelyng, 7; State Trials, v, 1023.

the bar and others." Sir Thomas Raymond calls him a good and prudent man; and Sir John Hawles, Solicitor-General in the reign of William III., speaks of him as the "second best judge which sat in Westminster Hall since the king's restoration."[1] The references to the year books and reports in the margin of Fitz-Herbert's "Natura Brevium" are a sufficient evidence of his industry in the pursuit of his profession.

He died on December 24, 1668, at which time he was seated at Norrington in Wiltshire. By his wife, Barbara, daughter of Sir George Clarke, of Watford, Northamptonshire, he left a large family, whose descendants still flourish in various counties and promise a long continuance of the name. Thomas one of his grandsons was, like him, a distinguished lawyer, and being made, first, chief justice of the Common Pleas in Ireland, and then lord chancellor there, was raised to the peerage of that kingdom by the title of Baron Wyndham, of Finglass, in 1731; but leaving no children at his death in 1745 the title became extinct.[2]

WYTHENS, FRANCIS.

Just. K. B. 1683.

See under the reign of James II.

[1] 1 Siderfin, 393; T. Raymond, 174; State Trials, ix. 1003.

[2] Collins's Peerage, iv.; Smyth's Law Officers of Ireland.

JAMES II.

Reigned 3 years 10 months and 5 days, from February 6, 1685, to December 11, 1688.

SURVEY OF THE REIGN.

It may seem paradoxical to assert, what nevertheless is true, that it was fortunate for England that the attempts in the reign of Charles II. to pass an act for the exclusion of his brother, the Duke of York, from the throne, were not successful. The inevitable consequence of such an enactment would have been the renewal of all the horrors of a civil war; while by the quiet and unresisted accession of that prince on Charles's death, his subjects were enabled to judge of his real character; and soon to be convinced that such was his bigoted and tyrannic disposition, that their liberties, their religion, and even their lives were not safe under his rule. The general discontent in a short time produced the natural consequence, and, in less than four years after he succeeded to the crown, resulted in a bloodless revolution, by which he was obliged to leave the kingdom; and those principles were established under which the country has flourished for nearly two centuries since.

Among the causes which produced this result were his total disregard of the laws and constitution of the realm; his assumption of the power to dispense with the penal statutes; his attempt to introduce martial law in time of peace without the authority of parliament; his introduction of Roman Catholics into various offices, and even upon the

bench; and, not least obnoxious to the public feeling, his endeavours to destroy the independence of the judges, and undermine their integrity by summarily dismissing those who in the slightest degree opposed his will. Of the twelve common law judges who were in office at King James's accession only three remained on the bench when he deserted the kingdom. Of the other nine, one became lord chancellor, one died, and seven were superseded: and of the fourteen additional judges whom the king elevated to the bench, he superseded five, two died, and seven were judges at the time of his retreat: so that in his short reign of not quite four years there were twelve removals in addition to the same number who were discharged during the latter years of Charles II.

The three of his original judges who remained on the bench at the end of the reign were, Sir Edward Atkyns, Sir Thomas Street, and Sir Robert Wright. The seven new ones were Sir Robert Baldock, Sir Edward Herbert, Sir Thomas Jenner, Sir Edward Lutwyche, Sir Thomas Powell, Sir John Rotheram, and Sir Thomas Stringer. That not one of these ten were continued in their seats at the revolution, nor were ever replaced on the bench, is a significant proof of their incompetency or unworthiness; and almost justifies the wholesale condemnation pronounced by Lord Chancellor Jeffreys (a good authority, as he himself appointed the majority of them), when he said to Lord Clarendon, "As for the judges, they are most of them rogues." Their guilt in assisting in the king's unconstitutional acts induced the parliament of William and Mary to except no less than six of them, besides Lord Jeffreys, out of the act of indemnity.[1]

There was less change in the Court of Chancery than in

[1] Clarendon's Diary, June 27, 1688; Stat. of Realm, vi. 179.

the other courts, one alteration only having occurred in each branch of it, and death being the cause in both instances.

LORD CHANCELLOR AND KEEPER.

FRANCIS NORTH, LORD GUILFORD, the lord keeper at the death of Charles II. was continued in the office on the accession of James II., till his own decease, seven months after. The Seal remained in the king's hands for about three weeks, when it was delivered to

GEORGE JEFFREYS, LORD JEFFREYS, chief justice of the King's Bench, on September 28, 1685, with the title of lord chancellor. His power and his life terminated on the flight of his master.

King James having obtained possession of the Great Seal out of the hands of Lord Chancellor Jeffreys, took it with him in his flight and threw it into the Thames under the idea of impeding the progress of his opponent. In May following it was recovered by some watermen near Lambeth.[1] The abdicated monarch caused other seals to be manufactured in France, and in the inventory made by his widow two years after his death in 1701, we find it recorded that "The Great Seals of England and Ireland in silver, and that of Scotland in brass," were found in his closet. The two silver seals were broken up and the silver given to Mr. Roettier, with the addition of a "chamberpot," "one chocolate-pot," "one morter and pestle," and "one little candlestick," to make new seals for "the present king" James III.[2]

MASTERS OF THE ROLLS.

SIR JOHN CHURCHILL, who had occupied this office for a short time in the preceding reign, enjoyed it for only eight months in this, when he died and was succeeded by

[1] Luttrell, i. 529.

[2] Archæologia, xviii. 229–33.

Sir John Trevor, one of the king's counsel, and Speaker of the House of Commons, on October 20, 1685, who retained it during the rest of the reign. The grant to him was not for life, as in former instances, but "durante bene placito nostro;" and the king reserved to himself the appointment of the six clerks.

Masters in Chancery.

Sir John Churchill, M. R.	1	Jac. II.
John Coell	1	—
William Beversham	1 to 4	—
Samuel Clarke	1 to 4	—
Sir Lacon William Child	1 to 4	—
Miles Cooke	1 to 4	—
John Franklyn	1 to 4	—
John Hoskins	1 to 4	—
Adam Oatley	1 to 4	—
Robert Legard	1 to 4	—
James Astry	1 to 4	—
John Edisbury	1 to 4	—
John Mithuen	1 to 4	—
Sir John Trevor, M. R.	1 to 4	—
Roger Meredith	4	—

Chief Justices of the King's Bench.

Sir George Jeffreys, who had presided in this court for little more than sixteen months under King Charles, continued his infamous career in the same post for nearly eight months in this reign; during which period he received the title of Lord Jeffreys of Wem. On his elevation to the office of lord chancellor

Sir Edward Herbert, chief justice of Chester, was appointed on October 23, 1685, but being removed to the chief justiceship of the Common Pleas, was succeeded by

Sir Robert Wright, the chief justice of that court, on April 22, 1687. Sir Robert was in office at the end of the reign.

JUSTICES OF THE KING'S BENCH.

I. 1685.	Feb.	Francis Wythens, Richard Holloway, Thomas Walcot } retained their places.
	Oct 23.	Robert Wright, vice T. Walcot.
III. 1687.	April 16.	John Powell, vice R. Wright.
	22.	Richard Allibone, vice F. Wythens.
IV. 1688.	July 7.	Thomas Powell, vice J. Powell.
		Robert Baldock, vice R. Holloway.
	August.	Thomas Stringer, vice R. Allibone.

At the end of the reign the judges were,
Sir Robert Wright, chief justice,
Sir Thomas Powell, Sir Robert Baldock,
Sir Thomas Stringer.

CHIEF JUSTICES OF THE COMMON PLEAS.

SIR THOMAS JONES, the chief justice at the end of the reign of Charles II., kept his place for a little more than fourteen months. He was then removed, and

SIR HENRY BEDINGFIELD, a judge of the same court, became its chief on April 21, 1686, and died in the following February.

SIR ROBERT WRIGHT, a judge of the King's Bench, was appointed chief justice of this court on April 16, 1687, and held the place for five days only; when, on his removal to the chief justiceship of the King's Bench,

SIR EDWARD HERBERT, the chief justice of that court, was transferred to the head of this on April 22, 1687, and so remained till the flight of James, whom he accompanied into France.

JUSTICES OF THE COMMON PLEAS.

I. 1685.	Feb.	Job Charleton, Creswell Levinz, Thomas Street } resumed their seats.
II. 1686.	Feb. 13.	Henry Bedingfield, vice C. Levinz.
	April 21.	Edward Lutwyche, vice J. Charleton
	26.	John Powell, vice H. Bedingfield.
III. 1687.	April 16.	Christopher Milton, vice J. Powell.

IV. 1688. July 6. Thomas Jenner, vice C. Milton.

The judges when King James fled were
Sir Edward Herbert, chief justice,
Sir Thomas Street, Sir Edward Lutwyche,
Sir Thomas Jenner.

Chief Barons of the Exchequer.

The Honourable William Montagu, was continued chief baron for about fourteen months, when he was removed from his post, which was supplied by

Sir Edward Atkyns, one of the puisne barons, on April 21, 1686, who held it till the termination of the reign.

Barons of the Exchequer.

I. 1685.	Feb.	William Gregory	were reappointed.
		Edward Atkyns	
	"	Robert Wright	
		Richard May, cursitor baron	
	Oct. 11.	Edward Nevill, vice R. Wright.	
II. 1686.	Feb. 13.	Thomas Jenner, vice W. Gregory.	
	April 21.	Richard Heath, vice E. Atkyns.	
	26.	Christopher Milton, vice E. Nevill.	
III. 1687.	April 22.	Thomas Powell, vice C. Milton.	
IV. 1688.	March	William Carr, cursitor, vice R. May.	
	July 7.	Charles Ingleby, vice T. Jenner.	
		John Rotheram, vice T. Powell.	

In December 1688, Richard Heath and Charles Ingleby were dismissed, and no new ones appointed, so that, besides the cursitor baron, there were only two barons left at the end of the reign,

Sir Edward Atkyns, chief baron,
Sir John Rotheram, William Carr, cursitor baron.

Court of Chancery.

A.R.	A.D.	Chancellor and Keeper.	Master of the Rolls.
1	1685. Feb.	Francis North, Lord Guilford, *Keeper*	Sir John Churchill
	Sept. 28.	George Jeffreys, Lord Jeffreys, *Chancellor*	—
	Oct. 20	—	Sir John Trevor

COURT OF KING'S BENCH.

A.R.	A.D.	CHIEF JUSTICES.	JUDGES OF THE KING'S BENCH.		
I.	1685. Feb.	George Jeffreys	Francis Wythens	Richard Holloway	Thomas Walcot,
	Sept. 28	(made Ld. Chan.)	—	—	(died)
	Oct. 23	Edward Herbert	—	—	Robert Wright
III.	1687. April 16	—	—	—	John Powell
	22	Robert Wright	Richard Allibone	—	—
IV.	1688. July 7	—	—	Robert Baldock	Thomas Powell
	Aug.	—	Thomas Stringer	—	—

COURT OF COMMON PLEAS.

A.R.	A.D.	CHIEF JUSTICES.	JUDGES OF THE COMMON PLEAS.		
1	1685. Feb.	Thomas Jones	Job Charleton	Cresswell Levinz	Thomas Street
2	1686. Feb. 13	—	—	Henry Bedingfield	—
	April 21	Henry Bedingfield	Edward Lutwyche	(made Ch. C. P.)	—
	26	—	—	John Powell	—.
3	1687. April 16	Robert Wright	—	Christoph. Milton	—
	22	Edward Herbert	—	—	—
4	1688. July 6	—	—	Thomas Jenner	—

COURT OF EXCHEQUER.

A.R.	A.D	CHIEF BARONS.	BARONS OF THE EXCHEQUER.		
1	1685. Feb.	William Montagu	William Gregory	Edward Atkyns	Robert Wright
	Oct. 11	—	—	—	Edward Nevill
2	1686. Feb. 13	—	Thomas Jenner	—	—
	April 21	Edward Atkyns	—	Richard Heath	discharged
	26	—	—	—	Christoph. Milton
3	1687. April 22	—	—	—	Thomas Powell
4	1688. July 6	—	Charles Ingleby	—	John Rotheram

Sir Richard May was Cursitor Baron at the beginning of the reign, and William Carr at the end of it; but the precise date when the latter came into office is not certain.

Sir George Jeffreys was created a peer while he was chief justice of the King's Bench, being the first instance of such an elevation. Sir Thomas Trevor in Queen Anne's reign was the first chief justice of the Common Pleas who was ennobled while in office. These precedents were frequently followed in subsequent reigns: but the only lord chief baron who has been called to the House of Peers, while holding that position, is Sir James Scarlett, created Lord Abinger in the reign of William IV.; Lord Lyndhurst, his predecessor

on that bench, having previously acquired his title while lord chancellor.

Attorney-Generals.

I. 1685. Feb. Sir Robert Sawyer, resigned.
III. 1687. Dec. 13. Sir Thomas Powys.

Solicitor-Generals.

I. 1685. Feb. The Hon. Heneage Finch, resigned.
II. 1686. April 26. Sir Thomas Powys, made attorney-general.
III. 1687. Dec. 13. Sir William Williams.

Serjeants-at-law.

The added initials mark the Inns of Court to which the serjeants belonged: and those with a * afterwards became judges.

I. 1685. *Edward Herbert (M.)
Motto "Jacobus vincit, triumphat Lex."

II. 1686. *John Holt (G.) *William Rawlinson (G.)
*Ambrose Philips *George Hutchins (G.)
*Christopher Milton (I.) William Killingworth.
*John Powell (G.) Hugh Hodges.
John Tate. Thomas Geers.
Motto "Deus, Rex, Lex."

III. 1687. *Richard Allibone (G.) *Charles Ingleby (G.)
Motto, "Rege Lex."

IV. 1688. *John Rotheram (G.) Henry Chauncy (M.)
William Le Hunt (G.) William Thompson (M.)
Vincent Denn (G.) Henry Trinder (I.)
*Salathiel Lovel (G.) Francis Fuller (I.)
William Moses (G.)
Motto, "Rex, Princeps et Christiana Libertas."

King's Serjeants.

King James on his accession granted a patent naming the following as his serjeants:—

1. 1685. John Boynton. *Thomas Jenner (I.)
*John Maynard (M.) Thomas Skipwith (G.)
George Strode (L.) *Edward Nevill (G.)
*Thomas Stringer (G.) *Henry Bedingfield (L)
*Robert Baldock (G.) Edward Lutwyche (G.)
Thomas Holt (G.) John Shaw (L.)

II. 1686. *John Holt (G.) Ambrose Philips.

IV. 1688. John Tate.

Serjeants Stringer and Strode were discharged from being king's serjeants in April 1687.[1]

Both of the Serjeants' Inns were in full use during this reign. The famous case of Sir Edward Hales as to dispensing with the test, was considered by the judges in Serjeants' Inn, Fleet Street; where also the obnoxious ecclesiastical commission sat: and Bishop Cartwright records that he preached in May 1687, in the chapel of Serjeants' Inn, Chancery Lane.[2]

KING'S COUNSEL.

King James on his accession named by patent the following as his counsel learned in the law.

J. Ottway.	Edward Herbert.
J. Trevor.	Roger North.
James Butler.	Thomas Jones.
Thomas Hammer.	Oliver Montague.
William Scroggs.	

To these he afterwards added

Richard Allibone (Luttrell, i. 387).

On the king's accession the members of the Middle Temple presented an address of congratulation, concluding with the words "May there never want millions as loyal as we are, to sacrifice their lives and fortunes in defence of your sacred person and prerogative in its full extent."[3] How soon did the measures of the king nullify this loyal wish and render his departure a source of rejoicing. In the very next year orders were sent to the Inns of Court for calling several Roman Catholics to the bar, which were obeyed by Lincoln's Inn, where two were called, by the Inner Temple calling one, and by Gray's Inn calling six.[4]

[1] Bramston's Autob. 274; Luttrell's Diary, i. 402.
[2] Parl. Hist. v. 332; Bp. Cartwright's Diary, 54.
[3] Rapin, xii, 7. [4] Luttrell, i. 388.

BIOGRAPHICAL NOTICES

OF

THE JUDGES UNDER THE REIGN OF JAMES II.

ALLIBONE, RICHARD.

Just. K. B. 1687.

THE grandfather of this short-lived judge was an eminent divine, rector of Cheyneys in Buckinghamshire, whose third son, Job Allibond (for so Anthony Wood spells the name), turned Roman Catholic, got a comfortable place in the post office, died in 1672, and was buried at Dagenham in Essex. He was the father of Richard, who, born about 1621, rather late in life commenced his legal education at Gray's Inn on April 27, 1663. Though called to the bar on February 11, 1670, no mention is made of him till November 1686, when, being a papist, he was selected by King James to be one of his counsel, and knighted. On April 28, 1687, he was made a serjeant, and then appointed to fill the place of a judge in the King's Bench vacated by the discharge of Mr. Justice Wythens. In the summer of that year he went the Northern Circuit, and Bishop Cartwright relates that at Lancaster, while his colleague Judge Powell attended at the parish church, Allibone went to the school-house, and had mass. In his charge to the grand jury he took notice that only three of the gentry came out to meet the judges, and called it a great disrespect of the king's commission:—a fact strongly

indicative of the general feeling of dissatisfaction in the country.

At the trial of the seven bishops in Trinity Term, 1688, Sir Richard laid down the most arbitrary doctrines, and exerted himself to the utmost to procure their conviction. On going the Home Circuit in July immediately after the trial, he had the indecency in his charge to the Croydon jury to speak against the verdict of their acquittal, and to stigmatise their petition to the king as a libel that tended to sedition. His death, which occurred on the twenty-second of the following month at his house in Brownlow Street, probably saved him from the attainder with which he would have been visited had he lived till the revolution. He was buried at Dagenham, where a pompous monument was erected over his remains. His wife was Barbara Blakiston, of the family of Sir Francis Blakiston of Gibside, in Durham, Bart.[1]

ATKYNS, EDWARD.

B. E. 1685. CH. B. E. 1686.

See under the Reign of Charles II.

EDWARD ATKYNS, second of that name, was the youngest son of Sir Edward Atkyns of Albury in Hertfordshire, the baron of the Exchequer in the reigns of Charles I. and II., by Ursula, daughter of Sir Thomas Dacre. Born about 1630 he became, like the rest of his family, a member of Lincoln's Inn, to which he was admitted in 1648; and having been called to the bar in 1653, he attained the post of reader in autumn 1675; when Serjeant Chauncy in his history of the county (p. 149) records that he made a very learned reading, and kept a very bountiful table. In Easter Term 1679 he was called serjeant, and on June 22 following

[1] Wood's Athen. Oxon. ii. 440; Bowes MSS. penes Sir Cuthbert Sharp; Bramston, 275; Diary of Bp. Cartright, 71; Luttrell, i. 287; State Trials, xii. 190; Notes and Queries, 3rd Series, iii. 103.

was constituted a baron of the exchequer, receiving at the same time the honour of knighthood. On the trial at York in July 1680, of Thomas Thwing and Mary Preswicks for high treason, both he and Justice Dolben conducted the proceedings and summed up the evidence with fairness and impartiality.

He was still baron at the commencement of the reign of James II., who promoted him to the office of lord chief baron on April 21, 1686, on the removal of Chief Baron Montagu for not agreeing with the royal claim to the dispensing power. It may therefore be presumed that Sir Edward gave in his adhesion to his majesty's opinion; which may very well account for his not being reappointed at the revolution of 1688, while the omission of his name from the judges, who for that reason were excepted out of the act of indemnity, probably arose from the king's consideration for his brother Sir Robert Atkyns, who was then appointed to fill his place.

He declined to take the oaths to King William, and retired to his seat at Pickenham in Norfolk, where he spent the remainder of his life in reconciling differences among his neighbours, who had so great a reliance on his integrity and judgment that they confided the most difficult causes to his decision. He died in London of the stone in October 1698.[1]

BALDOCK, ROBERT.

JUST. K. B. 1688.

THIS judge was the son and heir of Samuel Baldock of Stanway in Essex. His arms are the same as those borne by Robert de Baldock, sometime bishop of Norwich and lord chancellor to Edward II. He became a student at Gray's Inn on July 7, 1644, was called to the bar on February 11,

[1] Noble's Cont. of Granger, ii. 296; State Trials, vii. 1179.

1651, and arrived at the degree of ancient in May 1667. By his first marriage with Mary the daughter of Bacqueville Bacon (of the family of Redgrave), and one of the co-heirs of her brother Henry, he became settled at Great Hocham in Norfolk. This lady died in 1662, after which he took a second wife, whose name has not been handed down to us. Of his early legal career we have no other record than that of Roger North who says of him that he "had wit and will enough" to contrive a fraudulent conveyance. In 1671 he was recorder of Great Yarmouth, when Charles II. visited that place; on which occasion he was knighted. In July 1677 he received his summons to take the degree of serjeant in the next Michaelmas Term, and, according to the usual custom, he was complimented by being named autumn reader to his Inn of Court.[1] He was included in the list of king's serjeants on the accession of James II.

Though his forensic practice is very little noticed by the reporters, he was one of the counsel employed by the crown in the prosecution of the seven bishops; and his speech certainly does not give any great evidence of the profundity of his learning or of the beauty of his eloquence. He however showed himself so thorough-paced a stickler for prerogative, that within a week after the trial he was appointed on July 6, 1688, a justice of the King's Bench in the place of Sir John Powell, who had declared his opinion in favour of the prelates.[2] What sort of a judge Sir Robert would have been may be well conceived; but he had very little opportunity of shewing his qualifications; for before the next term the Prince of Orange had embarked for England, and the king was on the point of flying from it.

In the new appointments he of course was not thought of. His death occurred three years afterwards on October 4,

[1] Life of Lord Guilford, 223; Diary of Dean Davies, 46.
[2] State Trials, xii. 417; Bramston's Autobiog. 311.

1691. In the church of Great Hocham there is a monument to him and also to his only son Robert, who was killed in a naval battle in 1673. The judge's daughter and heir Mary was married to George Townshend of Wretham, a descendant of Sir Roger Townshend the judge in the reigns of Richard III. and Henry VII.[1]

BEDINGFIELD, HENRY.

JUST. C. P. AND CH. C. P. 1686.

JOHN BEDINGFIELD of Halesworth in Suffolk, the younger brother of Thomas, the justice of the Common Pleas in the reign of Charles I., and himself a bencher of Lincoln's Inn, was the father of this judge, by his wife Joyce daughter and coheir of Edmund Morgan of Lambeth. Henry Bedingfield was the fourth of five sons, and was born in 1633. Admitted into his father's Inn of Court on May 20, 1650, he was called to the bar on May 7, 1657, and was raised to the degree of the coif in 1683; being made king's serjeant some time after, and knighted. In 1684 he was elected sub-steward of Great Yarmouth.

Roger North calls him "a grave but rather heavy lawyer; but a good churchman and loyal by principle." He relates (p. 246) that Lord Guilford "had cast his eye upon him," and informed him of his intention to nominate him for a vacancy on the bench. The serjeant gratefully declared he would "ever own his preferment as long as he lived to his lordship, and to no other person whatever." But on hearing this Chief Justice Jeffreys, jealous of the lord keeper's power, sent to the serjeant's brother, a woollen-draper in London, afterwards lord mayor, who was one of his creatures and boon companions, and told him that if his brother so much as went to the lord keeper, he would oppose him, and he should not be a judge at all. The poor serjeant, whose

[1] Blomfield's Norfolk, i. 312, 314, 320; Norwich, i. 499.

"spirits were not formed for the heroics," was obliged to conform, and accordingly was not raised to the bench during Lord Guilford's life. He however received the promotion soon after that nobleman's death; being appointed a judge of the Common Pleas on February 13, 1686, in the place of Sir Creswell Levinz. It is to be presumed that, either from his own conviction or the arguments of Jeffreys he acknowledged the king's power to dispense with the penal laws, as two months after, upon the recommendation of the same arrogant patron, he was raised to the head of that court on April 21, on the discharge of Chief Justice Jones. He did not enjoy this dignity much more than nine months, dying suddenly while receiving the sacrament in Lincoln's Inn Chapel on Sunday February 6, 1687. A mural monument of white marble was erected to his memory in Halesworth church.[1]

CARR, WILLIAM.

CURSITOR B. E. 1688.

See under the reign of William and Mary.

CHARLETON, JOB.

JUST. C. P. 1685.

See under the Reign of Charles II.

To the ancient Shropshire family of Charleton, which from the thirteenth century had produced knights, bishops, and barons, and a member of which, Robert de Charleton, chief justice of the Common Pleas, in the reign of Richard II., has already been noticed, Sir Job Charleton belonged. He directly descended from Sir Alan Charleton of Appley Castle near Wellington, the brother of John, the first Lord Powis; and was the eldest son of Robert Charleton of Whitton by his first wife Emma daughter of Thomas Harby of Adston,

[1] Suckling's Suffolk, ii. 337; Bramston's Autobiog. 221, 223, 268.

Northamptonshire; from whose brother Sir Job Harby (both eminent jewellers who had suffered much in the royal cause) he received his baptismal name. He was born in London in 1614, and educated at Magdalen Hall, Oxford, where he took his bachelor's degree in 1632. Entering at Lincoln's Inn on November 14, in the next year, he was called to the bar in due course; but does not appear to have practised in the courts during the interregnum. He probably devoted himself to his legal duties in the country, for he was elected to Protector Richard's only parliament in 1659, and to the first two parliaments of Charles II. in 1660 and 1661, as member for Ludlow.

His reputation for loyalty may be inferred from his being included on the Restoration in the first batch of new serjeants, and being made one of his majesty's council at Ludlow for the Marches of Wales. In 1662, he had a grant of 3,700*l.* for the services rendered by his father to Charles I.[1]; and also succeeded Sir Geoffrey Palmer as chief justice of Chester, being thereupon knighted. Though he became king's serjeant on May 20, 1668, he seems to have confined himself to his judicial functions at Chester, and to his chamber practice and parliamentary duties in London; as his name is very seldom mentioned by the law reporters of the day.

In the parliaments of 1659 and 1660, he took little part in the debates except on points of form. In that of 1661, he was chairman of the committee for elections; and on February 4, 1673, he was unanimously elected speaker in the place of Sir Edward Turnour, who had been appointed lord chief baron during the recess. His speech of disqualification being received in the usual manner was followed by his claim for the customary privileges in so neat and brief an address, that Lord Chancellor Shaftesbury complimented him on having "with so much advantage introduced a shorter

[1] Cal. State Papers, 1662, p. 376.

way of speaking" on the occasion. Though accepting this post with evident willingness and upon the recommendation of the government, he had not occupied it for a fortnight before he resigned it. There was probably some other motive for this sudden relinquishment than the temporary indisposition which was the pretence. The assertion of a contemporary author that he gave it up for a grant of 500*l.* a year is unfounded; as that grant is dated two years before, on March 28, 23 Car. II. 1671; and was made as an addition to his profits as chief justice of Chester. His retirement from the chair was not unlikely to have been the result of an intrigue of the Earl of Shaftesbury, who was then in the ascendant. By Sir Stephen Fox's confession to the parliament of 1679, Sir Job had a pension of 1,000*l.* while he was speaker.[1]

Sir Job retired to his chief justiceship of Chester, in which he desired to die: but after a few years he was disturbed in the enjoyment of it by the ambition of Sir George Jeffreys. That impudent aspirant pressed the king so hard for the place, that to make way for him it was resolved that Sir Job should be removed to a seat in the Common Pleas. This Sir Job took heavily to heart, and desiring to see the king to endeavour to divert him from the purpose, went to Whitehall and placed himself where the king must pass; but his majesty, seeing him at a distance and knowing his object, turned short off and went another way. The disappointed judge "pitied his poor master, and never thought of troubling him more, but buckled to his business in the Common Pleas." Roger North, who relates these particulars (p. 213) calls him "an old cavalier, loyal, learned, grave, and wise," and concludes his narration thus: "May Westminster Hall never know a worse judge than he was."

He sat as justice of the Common Pleas from April 26,

[1] Harris' Lives, v. 281; Parl. Hist. iv. 1141.

1680, till April 21, 1686, during which time there is only one public trial recorded on which he was present, viz. that of William Lord Russell in 1683, and in that he simply gave his opinion with the other judges that it was not necessary that a juryman should have a freehold. He was one of the four judges who were removed by James II. in 1686, for giving his opinion in opposition to the king's dispensing power. He was however restored to his chief justiceship of Chester, and had a patent to wear a judge's robe there[1]; and as further proof of royal favour he was made a baronet on the 12th of May following. He died on May 27, 1697.

His seat was at Ludford in Herefordshire. By his first wife, Dorothy, daughter and heir of William Blundell of Bishops Castle, Esq., he had four sons and three daughters; and by his second wife, Lettice, daughter of Walter Waring of Oldbury, Esq., he had one son and one daughter. The baronetcy descended in regular succession till the fourth holder of it, who died unmarried in 1784, when the title became extinct, and the estates devolved on his nephew Nicholas Lechmere of Hanley Castle, Worcestershire; who thereupon added his uncle's name to his own.[2]

CHURCHILL, JOHN.

M. R. 1685.

See under the Reign of Charles II.

CHURCHILL is a manor in the neighbourhood of Banwell in Somersetshire; but so far from giving a name to the family of the Master of the Rolls, Collinson traces it in the hands of different proprietors from the time of Edward III. till its purchase in 1653 from its then possessor by Sir John Churchill himself, who was probably attracted by its name. Being sold immediately after his death for the payment of

[1] State Trials, ix. 592; Bramston's Autob. 223; 2 Shower, 460.

[2] Wotton's Baronet. v. 13; Burke; A. Wood's Fasti, i. 464.

his debts, the manor and the family became disconnected after a short union of only one generation.[1]

Sir John Churchill and his namesake the first Duke of Marlborough were cousins, each being descended from Jasper Churchill, Esq., of Bradford in Somersetshire, who was the great-grandfather of the duke, and the grandfather of Sir John, whose father was also named Jasper.[2] Sir John was admitted to the society of Lincoln's Inn in 1639, called to the bar in 1647, and elected autumn reader in 1670, having then the title of knighthood. This dignity he had attained by his eminence at the bar, which as we have seen enabled him to purchase the manor of Churchill in 1653, and caused his selection as one of the king's counsel, and attorney-general to the Duke of York. He practised in the court of Chancery, and Roger North (p. 199) relates of him that on his walk from Lincoln's Inn to the Temple Hall, where the court sat out of term in Lord Keeper Bridgeman's time, he had taken no less than 28*l.* for motions and defences for hastening or retarding the hearings of causes only. This inconvenient practice was greatly amended by Lord Guilford, when lord keeper.

He was the first counsel named by the House of Lords in 1675 to manage the famous case of Sir Nicholas Crispe against a member of the House of Commons, which occasioned the absurd contest about privilege between the two houses. In the course of the dispute Sir John and the other counsel, notwithstanding the protection of the peers, were committed to the Tower by the Commons; and to such an extent was the quarrel carried that the king was obliged to prorogue the parliament, when Sir John and his imprisoned colleagues were of course released. He became a member of this parliament during the latter portion of its sittings as representative for Dorchester; and was elected for Newtown in

[1] Collinson's Somersetsh. iii. 580. [2] Collins' Peerage, i. 364,

Hampshire in the next parliament. The city of Bristol chose him as its recorder in April 1683, in the place of Sir Robert Atkyns; and on the death of Sir Harbottle Grimston he was invested with the office of master of the rolls on January 12, 1685, less than a month before King Charles died. In the parliament called by James II. he was returned for the city of Bristol; but an early end was put both to his judicial and his parliamentary career by his own decease in the summer vacation following. He left four daughters by his wife Susan, daughter of Edmund Prideaux, Esq.[1]

GREGORY, WILLIAM.

B. E. 1685.

See under the reigns of Charles II. and William III.

GUILFORD, LORD. *See* F. North.

HEATH, RICHARD.

B. E. 1686.

Of Mr. Baron Heath's parentage, except that his father's name was Roger, I can find no account. He became a member of the Inner Temple in July 1652, was called to the bar in November 1659, and was elected a bencher in October 1677. Pepys (i. 350) mentions a "Mr. Heath, atturney of the duchy" in 1662, but there is nothing to identify him with the baron. The first certain notice of him is his being summoned to take the coif in 1683, and the next, his promotion to the bench of the Exchequer on April 21, 1686, when Sir Edward Atkyns was made chief baron. Of his legal acquirements there is no record, but of his subserviency to the court there is manifest proof in his concurring with his colleagues in favour of the king's dispensing power, and in his conduct with regard to the seven bishops.

[1] State Trials, vi. 1144, *et seq.*; Luttrell, i. 254, 324; 2 Shower, 434.

Archbishop Sancroft thus relates it to King James, when called before him on November 6, 1688, after the invasion of the Prince of Orange. "I will particularly acquaint your majesty with what one of your judges, Baron H. by name, said coming from the bench, where he had declared our petition to be a factious libel. A gentleman of quality asking him how he could have the conscience to say so, when the bishops had been legally discharged of it? he answered, 'You need not trouble yourself with what I said on the bench: I have instructions for what I said, and I had lost my place if I had not said it.'" He did lose his place shortly after, being superseded by James himself in the beginning of December. No wonder therefore that he was included among those who were excepted from the bill of indemnity at the revolution. He died in July 1702. His wife was Katherine, daughter of Henry Weston of Ockham and Sende, Esq., sheriff of Surrey and Sussex.[1]

HERBERT, EDWARD.

CH. K. B. 1685. CH. C. P. 1687.

SIR EDWARD HERBERT was the third son of the lord keeper of Charles II. of the same names and title, whose career has already been recorded. He was educated at Winchester, and was thence elected fellow of New College, Oxford, where he took the degree of B.A. on April 21, 1669. He then went to the Middle Temple, and becoming a barrister migrated to Ireland, on his being made attorney-general there. He was knighted on February 19, 1683, and succeeded Sir George Jeffreys as chief justice of Chester in October of the same year. Having been subsequently appointed attorney to the Duke of York, he was, soon after his Royal Highness's accession to the throne,

[1] 2 Shower, 459; State Trials, xii. 503; Parl. Hist. v. 334; Stat. of Realm, vi. 178; Burke's Landed Gent. 1561; Luttrell, i. 482, v. 198.

made attorney-general to the queen; and, when Jeffreys was raised to the chancellorship, was promoted to the vacant office of chief justice of the King's Bench, on October 23, 1685, and sworn of the Privy Council.[1] On his previous investiture with the necessary degree of serjeant he gave rings with the extraordinary motto "Jacobus vincit, triumphat lex." His inauguration to the bench was ushered in by a speech from the infamous Jeffreys, as lord chancellor, in which his father's services were magnified and the following characteristic advice given to him: "Be sure to execute the law to the utmost of its vengeance upon those who are now knowne, and we have reason to remember them, by the name of WHIGGS! and you are likewise to remember the SNIVELLING TRIMMERS: for you know what our Saviour Jesus Christ says in the Gospel, that 'they that are not for us are against us.'"[2]

Of his merits as a lawyer previous to his elevation we have no means of judging from the English Reports; but Burnet describes him (iii. 92) as "a well-bred and virtuous man, generous, and good-natured," but "an indifferent lawyer. . . . He unhappily got into a set of very high notions with relation to the king's prerogative. His gravity and virtues gave him great advantages, chiefly his succeeding such a monster as had gone before him. So he being found to be a fit tool, was, without any application of his own, raised up all at once to this high post."

In the king's attempts for the establishment of popery, one of his earliest steps was to appoint Roman Catholics to offices, and grant them a patent of dispensation from the oaths required by the Test Acts. Sir Edward Hales held the colonelcy of a regiment under these circumstances, and for the purpose of trying the question whether the king had

[1] Wood's Athen. Oxon. iv. 552; Fasti, ii. 304; Bramston's Autob. 207.

[2] Gent Mag., May, 1852, p. 452, quoting Collect. Juridica, ii. 405.

power to grant such dispensation, a sham action to recover the penalty was brought against Sir Edward by Godden his coachman. On the case being argued on demurrer Chief Justice Herbert gave a decided opinion that there was no law whatsoever but what may be dispensed with by the king as supreme lawgiver; but as it was a case of great importance he promised to submit it to the twelve judges. On a subsequent day he gave judgment for Sir Edward Hales, stating that all his colleagues agreed with his opinion except Mr. Baron Street. Well might Evelyn say, "Every one was astonished. Great jealousies as to what would be the end of these proceedings." There can be no doubt, however, that unconstitutional as this doctrine is now allowed to be, the chief justice really and conscientiously held it; and afterwards, when his judgment was assailed by Sir Robert Atkyns and other writers, he published a vindication of it with the authorities upon which it was founded. Almost immediately followed his appointment as one of the ecclesiastical commissioners, who had powers almost as extensive and quite as obnoxious as those of the old High Commission Court: but the chief justice formed one of the minority which subsequently voted against the tyrannical suspension of the fellows of Magdalen College.[1] In Easter Term, 1687, he refused a rule for the execution at Plymouth of a soldier who had been tried for desertion at Reading; and so determined was the king to effect his purpose of introducing martial law that Sir Edward was at once removed, and within a day or two Sir Robert Wright, who was substituted for him, complied with the king's will as a matter of course.

Though discharged from the King's Bench, he was on the next day, April 22, made chief justice of the Common Pleas, in which court he continued till the flight of the king.

[1] State Trials, xi. 1195, 1251; Evelyn, iii. 212, 214; Gent. Mag. March 1852, p. 241; 2 Shower, 497; Bramston, 274, 278; Burnet, iii. 149, note.

Remaining true to his master, Sir Edward joined the self-exiled monarch, and was of course excepted from the bill of indemnity, notwithstanding the high character for honour and integrity universally accorded to him in the debates. In France King James created him Earl of Portland, and gave him the nominal office of lord chancellor, in which his principal duty was to draw up declarations, asserting his master's right to his deserted dominions. Some of the most violent ones were unjustly attributed to him; for he in truth had little or no influence over James; the Roman Catholic ministers monopolising all the sway. Though taking rank as chancellor, and possessing all the external marks of his office, he was not allowed, as a Protestant, to hold a seat in the Council. A large majority of the Jacobites in England remonstrated; but to their prayer that he should be admitted James answered evasively, that he would be "on all occasions ready to express the just value and esteem he has for the lord chancellor." When James's Protestant servants were dismissed in October 1692 Sir Edward retired into Flanders, but afterwards returning to France he died at St. Germains in November 1698. His brother Arthur, who took the other side, became first lord of the admiralty to King William, and was created Earl of Torrington, with a grant of Sir Edward's estate of Oatlands in Surrey.[1]

HOLLOWAY, RICHARD.

JUST. K. B. 1685.

See under the Reign of Charles II.

JOHN HOLLOWAY, the father of this judge, is described by Anthony Wood as a "covetous civilian and public notary" at Oxford, where he took the degree of bachelor of law in

[1] Burnet, iii. 92, note; Evelyn, iii. 235; Lives of Lord Chanc. (1712), ii. 132; Parl. Hist. v. 336; Luttrell, i. 494, ii. 15, 600, iii. 300, iv. 86, 447; Lord Macaulay's England, iv. 227, 386.

1642, and was official to the archdeacon and registrary of Berkshire. His son Richard became a fellow of New College; and though admitted a member of the Inner Temple on February 7, 1634, was not called to the bar till November 24, 1658, the interval being probably caused by the great rebellion, or perhaps by his pursuing his father's avocations at Oxford. His practice as a barrister seems to have been confined to that city, his name not being mentioned by any contemporary reporter. The only record of his doings is that he was one of the first passengers in the "flying coach . . . having a boot on each side," that started from Oxford to London on May 3, 1669, and performed the journey in thirteen hours. He became reader of his inn in Lent, 1675, and had the credit of procuring the special introduction of the future Lord Harcourt as a member. About this time the following descriptive hexameter was written on five of the family then resident in Oxford:

"Sarjeant, Barrester, Necessitie, Notarie, Mercer,
Gravely dull, ill-spoken, lawless, cum pergere, broken;"

the first being Serjeant Charles Holloway, the uncle; the second being the future judge, "living against the Blew-bore in St. Aldate's parish;" the third, Charles, the son of Serjeant Charles, so called from the old saw *Necessitas non habet legem*, as being a barrister but no lawyer; the fourth, the judge's father; and the fifth, another uncle, a broken tradesman.[1]

When Stephen Colledge was sent to Oxford in 1681 to be tried for high treason, after the bill against him had been thrown out by a Middlesex grand jury, Richard Holloway (who in July 1667 had been created a serjeant) was employed as one of the counsel for the prosecution. Luttrell (i. 260) calls him king's serjeant in June 1683, when he was knighted; and on September 25 of the same year he was

[1] Athen. Oxon.; Life, xliv., lxiii., lxxix.; Fasti, ii. 12.

constituted a judge of the King's Bench. In the following November he was engaged in the trial of Algernon Sidney in that court, but took no active part in it; and in the other public trials of Charles's reign his conduct was irreproachable.[1]

After the accession of James II. he concurred in the deserved but illegal sentence pronounced against the infamous Titus Oates; and in the excessive fine of 30,000*l.* imposed upon the Earl of Devonshire for an assault upon Colonel Culpepper in the king's palace, overruling his lordship's plea of privilege: and for both these judgments he and the other members of the court were called before parliament after the revolution; when the latter was declared a breach of privilege, and so much of the former as remained to be inflicted was remitted by the king. The judges were, however, permitted to depart unscathed. But having in the great case as to the king's power to dispense with the penal laws acquiesced in the judgment in favour of the crown, he and all who survived were excepted out of the bill of indemnity passed in the second year of William's reign.[2]

This was a severe measure toward Sir Richard, because he had already been made a victim to James's vengeance, and had amply atoned for his previous error by boldly resisting the king's attempt to impose martial law in time of peace without the consent of parliament; and by publicly declaring that the petition of the seven bishops was not a seditious libel. They were acquitted on June 30, 1688, and on July 4 the honest judge was dismissed.

I know not the date of his death, but he was still living at Oxford in November 1695, as at that time he drew up the will of Anthony Wood the historian of the university.[3]

[1] State Trials, viii. 591; ix. 867; x. 45, 151, 515.

[2] State Trials, x. 1315; xi. 1200, 1368; Stat. of Realm, vi. 178.

[3] Bramston's Autob. 272, 310; Luttrell, i. 449; State Trials, xii. 426; Athen. Oxon. i. Life, cxxiii.

JEFFREYS, GEORGE, LORD JEFFREYS OF WEM.

CH. K. B 1685, LORD CHANC. 1685.

See under the Reign of Charles II.

THE task of writing the life of "this very worst judge that ever disgraced Westminster Hall," as Mr. Justice Foster designated the subject of the present sketch, is so ungrateful, that, were it possible, I would willingly decline it, if for no other reason, because its disgusting details are so generally known that the relation of them can be but a repulsive repetition. But the nature of the work in which I am engaged forbids the omission, and I have only to regret, for the sake of humanity, that I can find no ground for reversing the verdict that has been already pronounced against him.

George Jeffreys was the younger son of John Jeffreys of Acton near Wrexham in Denbighshire, a gentleman of ancient stock but of comparatively slender means, by Margaret, daughter of Sir Thomas Ireland, of Bewsey in Lancashire. Born in 1648 his education began at the free-school of Shrewsbury, and was continued, first, at St. Paul's school in London, and then at Westminster under Dr. Busby, to whose tuition he often referred in his after life. He himself states in the Cambridge case that he was once a member of that university[1]; but it is not known to what college he belonged, and he took no degree. His untractable disposition was early exhibited by his refusing to settle in some quiet course of trade for which he was intended; and he was of so litigious a temper and so fond of opposition and argument, that his father used to say to him, "Ah! George, George, I fear thou wilt die with thy shoes and stockings on."[2] Choosing the law as his profession, his inclination to it being probably prompted by the success of his grandfather, who had been one of the judges of North Wales, he

[1] State Trials, xi. 1329.

[2] Roger North's Lives, 209.

commenced his legal studies, with the pecuniary aid of his grandmother, at the Middle Temple on May 19, 1663, and was called to the bar on November 22, 1669.

During his novitiate he had lightened the rigour of his studies, by too great a devotion to the exciting pleasures of the times, which, as a natural reaction from the austerities of the puritan rule, had become eminently hilarious and disgracefully profligate. Daring and impudence in that age were almost certain to ensure success, and an apocryphal story of the proficiency of the young aspirant in these qualifications is related, of his appearing in a forensic gown at the Kingston assizes during the year of the plague, and pleading there as a barrister three years before he was called. A voluble tongue and a stentorian voice, joined with the interest of the disaffected party in the state, to which he at first attached himself, soon introduced him into considerable practice, principally confined to criminal business and the city courts. This led him into the society of the members of the corporation, to whom his jovial disposition was not a little recommendation. He found a firm friend in an alderman of the same name, through whose influence he was elected to the place of common serjeant on March 17, 1671, at the early age of twenty-three.

Seeing little prospect of advancement from his connection with the popular party, he gradually deserted it; and getting himself introduced to Chiffinch, the king's page, pimp, and factotum, he made himself so agreeable to that worthy, both by joining in his potations, and by betraying the plans of the disaffected, that he soon was recommended to his majesty as a man likely to do good service. Through the same means, having also procured another powerful advocate in the Duchess of Portsmouth, he easily secured to himself the post of recorder of London on October 22, 1678, receiving a year before the first reward of his apostacy by being

knighted and appointed solicitor to the Duke of York. He brazened out the disgrace of his desertion, and from this time forward he attached himself wholly to the court party; treating his former friends not only with contempt, but with the utmost violence of reprobation.

His tergiversation set the opposition's wits to work, and he was the subject of many lampoons. They are not fit for these pages, but the following extract from "A Westminster Wedding, or the Town Mouth," 1679, will shew the character he had acquired at this early period, before he had an opportunity of exhibiting the full brutality of his disposition:—

"Judge of his merit by his getting:—
He's got a ven'mous heart, and tongue,
With vipers, snakes and adders hung,
By which, in court he plays the fury,
Hectors complainant, law, and jury:
His impudence hath all laws broken,
(To the Judges' honour be it spoken),
For which he got a name that stinks
Worse than the common jakes or sinks:
But to allay the scent so hot,
George from the court has knighthood got,
Bestow'd upon him for his bawling—
A royal mark for caterwauling."

The first title to this piece was occasioned by his second marriage with a lady, who was supposed to be not remarkable for continence; and the second was in allusion to his calling himself the "mouth-piece of the city." His first wife was Sarah, daughter of the Rev. Thomas Neesham, and the circumstances under which he married her (May 22, 1667) tell greatly to his credit. She was the kinswoman and humble friend of a merchant's daughter, a prize of 30,000*l.*, to whose hand or fortune Jeffreys aspired, and had used the companion as his secret advocate. But the plot being discovered, the poor girl was dismissed; and coming up to town to tell of her failure and disgrace, the discarded lover took pity on her

and married her. She bore him several children during the eleven years of their union; and three months after her death in May 1678, he contracted the second marriage which was the subject of the above lampoon. The lady was Mary, daughter of Sir Thomas Bludworth, Lord Mayor of London and M.P. for the city, and the widow of Mr. Jones a gentleman of Montgomeryshire.

He held the recordership for two years; during which, though he did not betray all the violence and cruelty that afterwards distinguished him, he exhibited a sufficient inkling of his overbearing disposition. Such devotion did he pretend to have for the dignity of the city magistrates, that when a prosecution was commenced against one Francis Smith a bookseller for publishing "an act of Common Council in the reign of Philip and Mary, for retrenching the expenses of the lord mayor and sheriffs: with reasons for putting it into present execution," and the indictment had been thrown out by the grand jury, he sent it back to them three times, and, on their persisting in their verdict, he flew into a rage and, not content with abusing them grossly, committed Smith to Newgate.[1] In his anxiety to follow the popular cry against papists, he forgot the religious profession of his patron, the Duke of York, going out of his way to insult the prisoners of that persuasion, against whom he had to pronounce sentence as recorder, by ridiculing and inveighing against the doctrines they professed. But when the tide seemed to be turning and the court party had managed to meet the petitions for a parliament by addresses of abhorrence, Sir George took so active a part in getting up the latter that he was visited with the censure of the House of Commons. On November 13, 1680, a vote was passed, declaring that by traducing and obstructing petitioning for the sitting of parlia-

[1] State Trials, vii. 942.

ment he had betrayed the rights of the subject; and ordering that an address be made to his majesty to remove him out of all public offices; and that the members for London should communicate the said vote to the court of aldermen. On receiving this communication the aldermen resolved that Sir George be advised and desired to surrender the office; which he accordingly did on December 2, having in the interim obtained the reluctant permission of the king, who laughed and said that Sir George was not parliament-proof. With this concession and a reprimand on his knees at the bar, the House was satisfied, and Sir George kept his other places.[1]

Since his election as recorder he had received the degree of the coif in February 1679, and had been made king's serjeant on May 12, 1680. In the preceding month he had also been constituted chief justice of Chester, an office which he retained till he became chief justice of the King's Bench. In almost all the numerous state trials during this period, connected with the Popish, the Meal-tub, and the Rye House plots, he was engaged on the part of the crown; and after he became king's serjeant he took a prominent part in them. In few of these, as reported, is there much to complain of; except in that against Stephen Colledge, whom he seemed to take pleasure in ridiculing, and in which he came into collision with Titus Oates, who being a witness for the prisoner threatened the serjeant that he should "hear of it in another place;"[2] a threat that was not forgotten by Sir George when the brazen-faced plotter was sentenced four years afterwards for perjury. The serjeant's general character at the bar for insolence and brow-beating his antagonists was so notorious, that his brethren must have enjoyed the rebuke he received at Kingston assizes, as already related in Baron Weston's life.

[1] Parl. Hist. iv. 1216; City List of Recorders; Examen, 550.
[2] State Trials, viii. 601, 641, 664.

In trials at Nisi Prius he sometimes was paid in his own coin. Cross-examining a sturdy countryman clad in a leathern doublet, he bawled out "You fellow in the leather doublet, pray what have you for swearing?" The man looked steadily at him, and, "Truly, sir," said he, "if you have no more for lying than I have for swearing, you might wear a leathern doublet as well as I." On another occasion, a witness having in the course of his evidence frequently used the terms lessor and lessee, assignor and assignee, the serjeant exclaimed, "I question if you know what a lessor or lessee is, for all your formal evidence." "Yes, Sir George, I do," replied the witness, "and I give you this instance; if you nod at me, you are the nodder, and if I nod at you, you are the noddee." When he was recorder, a case was brought before him as to the payment for music at a wedding. One of the witnesses on being called a "fiddler," appeared much offended, and afterwards described himself as a "musitioner." Jeffreys asked him what difference there was between a "musitioner" and a fiddler. "As much, sir," said the man, "as there is between a pair of bagpipes and a recorder." And a witness with a long beard giving evidence that was displeasing to him, he said, "if your conscience is as large as your beard, you'll swear anything." The old man replied, "My lord, if your lordship measures consciences by beards, your lordship has none at all."[1]

Having through the intercession of the Duchess of Portsmouth forced himself into the place of chief justice of Chester, he soon behaved in such a manner as to draw down upon him general animadversion. Mr. Booth (afterwards Lord Delamere and Earl of Warrington) in his place in parliament described him as behaving himself "more like a jackpudding, than with that gravity that becomes a judge. He

[1] Law and Lawyers, i. 160, 246.

was mighty witty upon the prisoners at the bar, he was very full of his jokes upon people that came to give evidence . . . . . would interrupt them because they behaved with more gravity than he . . . . It's said, he was every night drinking till two o'clock, or beyond that time . . . . . In the mornings he appeared with the symptoms of a man that, over night, had taken a large cup;" and that instead of two assizes he has only one in the year, and in that "he dispatched business so well, that he left half the causes untried."[1]

After his retirement from the recordership, he acted as chairman of the Middlesex Quarter Sessions, and failing to induce the undersheriff to alter the jury returned, so as to exclude from the panel all sectarians, in his charge to them he spoke against the papists and dissenters, ranking them equally as mischievous to church and state.[2] On November 17, 1681, he was created a baronet, of Bulstrode in Buckinghamshire, where he had bought an estate, and built a mansion, which he inhabited till his disgrace, and which was afterwards sold to William Earl of Portland, in whose family it still continues.

During the last illness of Sir Edmund Saunders the Earl of Sunderland recommended Jeffreys to the king for the chief seat in the King's Bench; but his majesty raised doubts of his capacity, and had too much knowledge of his character to expect that the appointment would be agreeable to the other judges. This hesitation was the cause of the place remaining vacant for three months after Saunders' death; but his majesty being at last overtalked Jeffreys was installed chief justice on September 29, 1683. Evelyn referring to his advancement characterises him as being "reputed to be most ignorant, but most daring;" and relates that between

[1] Harris' Lives, v. 331. [2] Luttrell's Diary, i. 132.

the sentence and execution of Algernon Sidney he attended a city wedding and was exceeding merry, dancing with the bride, drinking and smoking, and talking much beneath the gravity of a judge. On another occasion he calls him "of nature cruel and a slave of the court." And Burnet says, "All people were apprehensive of very black designs, when they saw Jeffreys made lord chief justice, who was scandalously vicious and was drunk every day; besides a drunkenness of fury in his temper that looked like enthusiasm. He did not consider the decencies of his post; nor did he so much as affect to seem impartial, as became a judge; but run out upon all occasions into declamations that did not become the bar, much less the bench. He was not learned in his profession; and his eloquence, though viciously copious, was neither correct nor agreeable."[1]

Almost his earliest act as chief justice was to preside at Sidney's trial, when by his harsh and unfair treatment of the prisoner he gave the first sample of his brutal nature, and his courtly subserviency. The same course he pursued in the subsequent trials, insulting and vilifying the accused, and acting rather as the advocate employed to procure a conviction, than as an impartial judge sworn to see fair play between the parties. Not only was he unfeeling and indecorous towards the prisoners, but he bullied and threatened the counsel practising in his court; instances of which I shall have occasion to relate in the subsequent lives of Sir Edward Ward, Mr. Wallop, and Mr. Bradbury.

Though King Charles had at first resisted the appointment of Jeffreys he soon altered his opinion; and immediately after the condemnation of Sir Thomas Armstrong, who having been brought to the bar on an outlawry had claimed to be tried, saying, he demanded no more than the law, was

[1] Clarendon Corresp. i. 82; Evelyn, iii. 99, 104, 190; Burnet, ii. 389.

brutally answered by Jeffreys, that he should have it to the full; and thereupon ordered execution on the next Friday; his majesty took a valuable diamond ring from his finger, and gave it to the chief justice in acknowledgment of his services. This ring, Burnet says, was thereupon called his blood-stone.[1] He justified the king's approbation of him by his zeal and active aid to the court in obtaining the surrender of the charters of corporate boroughs; some letters evidencing his success.[2] The Lord Mayor of London complained to Sir John Reresby that the chief justice usurped all the power of his office, that the city had no intercourse with the king but through him, and that the court looked upon the aldermen as no better than his tools. In both London and York he treated the aldermen with contempt, and turned out many of them, without so much as allowing them to be heard as to the crimes they were accused of.[3]

Soon after King James had succeeded his brother, Jeffreys had an opportunity of revenging himself on Titus Oates, who being convicted on two indictments for perjury received at his hands so pitiless a sentence that even those who most condemned the man pronounced it cruel and excessive. Though the House of Lords refused to reverse the judgment, King William at their request pardoned such part of the punishment as remained to be inflicted.[4] Within a week after these trials Jeffreys was created Baron Jeffreys of Wem in the county of Salop on May 15, 1685: and that very day was signalised by another exhibition of his brutality against Richard Baxter, then applying for a delay of his trial. Alluding to Oates, then standing in the pillory, he called them "two of the greatest rogues and rascals in the

[1] State Trials, x. 114; Burnet, ii. 411; Luttrell, i.313.

[2] Proceedings Soc. Ant. ii. 163; Notes and Queries, 2nd Series, ii. 25.

[3] State Trials, viii. 217, quoting Reresby's Memoirs.

[4] State Trials, x. 1315–29;

kingdom." On this trial, his counsel, and particularly Mr. Wallop, were indecently silenced, and Baxter himself treated with the coarsest reproaches. The indictment against him was for reflecting against the bishops in his "Paraphrase upon the New Testament," and notwithstanding the absurdity of the charge, the chief justice easily procured a conviction; but so repugnant to common sense and to truth was his punishment, that his fine of 500*l.* was remitted before the end of the year.[1] But his excesses soon reached their climax. After the defeat of Monmouth at Sedgmoor in July, a commission of five judges was sent into the western counties to try those who were concerned in the rebellion. This commission consisted of Chief Justice Jeffreys, Chief Baron Montagu, Sir Francis Wythens, Sir Creswell Levinz, and Sir Robert Wright, and in order to give greater importance to it Jeffreys was invested with the temporary rank of lieutenant-general, and the command of a strong military escort that accompanied its progress. Commencing at Winchester and terminating at Wells the unfortunate prisoners at each place that was visited met with the full rigour of the law; and taking even the most favourable account, that of the historian Lingard, the willing apologist of all the acts of this reign, there were 330 executed as felons and traitors; above 800 given to different persons to be transported for ten years to the West Indies; besides many who were whipped and imprisoned. With indecent haste all those who were convicted after trial suffered in the course of twenty-four hours, while those who pleaded guilty were gratified with a short reprieve. Bad as this report is, it is not nearly so atrocious as the accounts of other writers, equally deserving of credit. And in all this "western campaign," as King James called it, no charge is brought

[1] State Trials, xi. 497.

against any of the judges but the chief; on him alone the harshness, the levity, the cruelty that attended the trials is fixed. His brutality in the examination of the witnesses in Lady Lisle's case, the blasphemy of his imprecations, his unjust insinuations against the unfortunate prisoner in his summing up, the ferocious anxiety he evinced for her conviction, and the threats to the jury by which he enforced it, are truly disgusting; and were equalled if not surpassed in what we hear of all the subsequent trials. Such dread was attached to his name that the memory of his fearful and sanguinary expedition is preserved to the present day in the district over which he exercised his terrific sway, by changing the name of the well-known children's game, called "Tom Tiddler's Ground," into "Judge Jeffreys' Ground."[1] Even Lingard is compelled by irresistible evidence to acknowledge that Jeffreys converted his commission to his own advantage, by "amassing a considerable sum of money, probably by the sale of his friendship and protection." The journals of parliament prove, among other items, that he extorted above 14,000*l.* from Mr. Prideaux to save him from prosecution.[2] When the atrocities of these proceedings came to be publicly discussed, the partisans of the king and the judge endeavoured each to acquit one by attributing the whole blame to the other, Jeffreys asserting "that what he did, he did by express commands, and that he was not half bloody enough for the prince who sent him thither;" and the advocates of the king asserting "that he never forgave Jeffreys executing such multitudes contrary to his express orders." It seems scarcely necessary to inquire on which side the truth preponderates, for as it is allowed that "the receiver is as bad as the thief," so it will be acknowledged that "the instigator is as bad as the actor," and the world, in judging of

[1] Lingard, xiii. 53; Notes and Queries, 2nd Series, vi. 432.
[2] State Trials, xi. 297; Parl. Hist. v. 245.

the comparative innocence of either, will rather look at that which proves the complicity of both. It is certain that the king received daily accounts of the proceedings, and did nothing to check them; that he delivered up the convicted prisoners to his courtiers (including the judge himself) to make what profit they could extort from them for their pardon; and that he welcomed the commissioners on their return from the bloody assize, expressing his thanks, and rewarding Jeffreys immediately by raising him to the head of the law. The great seal was given to him with the title of lord chancellor on September 28, 1685, less than a week after his return.[1]

His elevation made no change in his manners. At a dinner he gave, at which Reresby was present, he not only drank deep, but made one of his gentlemen, named Mountfort, an excellent mimic, who had been an actor, plead before him in a feigned cause, during which he aped all the great lawyers of the age, in their tones, their actions, and their gestures, to the great diversion of the company; but the encouragement of which was anything but becoming to one in his high station. His intemperate habits were in no degree diminished, and the same author relates that, dining with one of the aldermen, he and Lord Treasurer Rochester got so furiously drunk, that they stripped themselves to their shirts, and were with difficulty prevented from getting in that state on the sign-post to drink the king's health.

In opposition to Burnet's opinion as to his legal knowledge, we have the better judgment of Sir Joseph Jekyll; and Speaker Onslow says he made a great chancellor in the business of that court, and that in more private matters he was thought an able and upright judge wherever he sat.

[1] Lingard, *ut supra*; Burnet, iii. 55; Bramston, 207.

Serjeant Davy in 1754 describes him as ever "esteemed a great lawyer." Indeed we have a curious contemporary testimony in a letter to Dr. Grey, prebendary of Durham, from his sister, referring to some legal business. She says "They will use all delaye to gayn time and make delayes, but ther is a lord chancelere will trance them and will have no favour for such lawyers as shall offend in this kind; and indeed he dispatches causes hear with as much brevity as he turned over the rebels in Sumersetshire." And then, to make him smile, she tells him "how his honour sarved ane owld knight, master in chancere. It was proved he had taken bribs of both sids, which being proved before the lord chancelor, he fell upon the chanceryman sevearly, cald him owld knave, and bid him get out of the court like a stinking knave, that the court stunk of him; and so as he was turned out of his place." [1]

Even Roger North, who hated him, speaks thus favourably of him as a judge (p. 219). "When he was in temper, and matters indifferent came before him, he became his seat of justice better than any other I ever saw in his place. He took a pleasure in mortifying fraudulent attorneys, and would deal forth his severities with a sort of majesty. He had extraordinary natural abilities, but little acquired, beyond what practice in affairs had supplied. He talked fluent and with spirit," but then is added, "and his weakness was that he could not reprehend without scolding; and in such Billingsgate language as should not come out of the mouth of any man. . . . Scarce a day past that he did not chide some one or other of the bar, when he sat in Chancery; and it was commonly a lecture of a quarter of an hour long. . . . He spent in the Chancery Court what time he thought fit to spare. Many times, on days of causes at his house,"

[1] Burnet, ii. 389; State Trials, xix. 611; Raine's North Durham, 335.

(in Duke Street, Westminster,) "the company have waited five hours in a morning, and after eleven he hath come out inflamed, and staring like one distracted. And that visage he put on when he animadverted on such as he took offence at, which made him a terror to real offenders; whom also he terrified with his face and voice, as if the thunder of the day of judgment broke over their heads: and nothing ever made men tremble like his vocal inflictions. He loved to insult, and was bold without check; but that only when his place was uppermost."

It has been said that he was the real author of 'Vernon's Reports,' but that his name was too unpopular to be put to them. But this seems to be contradicted by the fact that these reports were not published till 1726, thirty-seven years after his death, and also by their containing cases decided in 1719, when he had been dead for thirty years.[1]

In the January following his elevation he acted as high steward on the trial for high treason of Lord Delamere, who, when Mr. Booth, had formerly given too true a description of his proceedings at Chester. It was easy to see that he was far from pleased with the acquittal. There is no doubt that soon after this Jeffreys was in some discredit at court, perhaps in consequence of the king's hearing of the extent of his pecuniary dealings with the prisoners in the west. To redeem his favour and to aid the king's desire to introduce the Popish religion and to discover its opponents, he suggested and was made president of a new ecclesiastical commission, of which the first victim was the Bishop of London, who was suspended from his office; and under which the disgraceful proceedings against Magdalen College, Oxford, took place.

The prosecution of the seven bishops followed, for pre-

[1] Wynne's Tribes of Wales, 110; Legal Bibliography, 346.

senting a petition to the king praying that the clergy might be excused from reading the declaration which his majesty had issued proclaiming liberty of conscience. This being interpreted as seditious, a prosecution was determined on, and they were committed to the Tower. It is difficult to believe that this unwise measure could have been adopted without the concurrence and advice of the lord chancellor, the first legal functionary of the court; but he professed to Lord Clarendon that he was much troubled at the prosecution, and desired his lordship to let the bishops know his desire to be serviceable to them. This conversation, however, was after he saw the extreme unpopularity of their imprisonment, and when he wished to father it upon some other advisers, who, he said, "would hurry the king to his destruction." He gave a plain condemnation of his choice of the judges by asserting just before the trial that "they were most of them rogues;" and soon after it was concluded he called them "a thousand fools and knaves," and chief justice Wright (to whose promotion to the bench he had been particularly instrumental) "a beast."[1]

When King James was contemplating his departure after the arrival of the Prince of Orange, he required the chancellor to occupy Father Petre's apartments in the palace, in order, says Barillon, to have the Great Seal near him, that he might take it with him. Accordingly Jeffreys delivered it up eight days before the king's retreat[2], and conscious of the detestation in which he was held, and the danger he ran in remaining, took means for his own escape. He disguised himself in a seaman's habit, and proceeding to Wapping to embark, he went into a cellar to take a pot. While there a scrivener came in, who, Roger North relates (p. 220), had been concerned in a chancery suit about a

[1] Clarendon's Diary, ii. 177, 179, 185.

[2] Clarendon's Diary, ii. 223, 226; Luttrell, i. 481.

"Bummery Bird"; and one of the counsel having called him a strange fellow, who sometimes went to church, sometimes to conventicles, and it was thought he was a *Trimmer*, the chancellor immediately fired, and cried out, "A trimmer! I have heard much of that monster, but never saw one: come forth, Mr. Trimmer, turn round, and let me see your shape;" and rated him so long that the poor fellow was ready to drop; and when on quitting the hall he was asked how he came off, "Came off," said he, "I am escaped from the terrors of that man's face, and shall have the frightful impression of it as long as I live." The scrivener never forgot that fearful countenance, and recognising the chancellor at once under his disguise, went out and gave the alarm. The mob poured in, and he was with difficulty rescued from their fury. He was hurried, with a shouting crowd at his heels, before the lord mayor, who was so shocked at his appearance that he could not do anything, and was seized with a fit from which he never recovered. By Jeffreys' own request he was taken, in a frenzy of terror, to the Tower, guarded by two regiments of militia, whose strongest efforts could scarcely keep off the thousands who pressed around the cavalcade with execrations and threats of vengeance.[1] There he remained for four months, suffering much from the injuries he received from the populace in his capture, and tormented with the stone to which he had been for some years subject. There, too, from a complication of disorders, aggravated by his drunken habits, and most probably by his recollections and his fears, he died on April 18, 1689. There also he was at first interred, but on the petition of his friends his body was removed in 1692 by warrant from Queen Mary to the church of St. Mary, Aldermanbury, where in 1810 it was discovered in a vault near the communion table, enclosed in a leaden coffin, with

[1] Lingard, xiii. 201; Bramston, 339; Luttrell, i. 486.

a plate inscribed with his name. He had formerly lived in the parish, and several members of his family were buried there.[1] He was without hesitation excepted out of the Act of Indemnity, and a bill was ordered to be brought in for the forfeiture of his estate and honours; but it dropped on the dissolution of the Parliament.[2]

However forbidding a portrait may be in its prominent features, there are often some rays of light that soften the general gloom of the resemblance. Even in Jeffreys' career the circumstances attending his first marriage evidence a generous disposition in his early years; and the latter part of his life is not without some redeeming proofs of a better disposition. An instance of his gratitude is recorded in saving Sir William Clayton, to whom he owed his first advance in City honours, from being hanged, when Charles's ministry had determined to sacrifice an alderman of London for the purpose of intimidating that corporation; and, even when in the midst of his bloodiest commission, he listened with calmness to the remonstrances of a clergyman of Taunton against his proceedings, and, though they had no immediate effect on his conduct, presented him on his return to London to a canonry in Bristol cathedral. That he had some proficiency in music, which sometimes

> "Has charms to soothe the savage breast,"

must be presumed from his being chosen in 1681 as the umpire to decide on the relative merits of the two organs offered to the Temple Church, when he selected that made by Father Smith. The rival instrument went to Wolverhampton.[3]

His honours and estates, though not forfeited by a bill of

[1] Gent. Mag. lxxx. part ii. p. 584; Notes and Queries, 1st Series vii. 46.
[2] Stat. of Realm, vi. 178; Parl. Hist. v. 414.
[3] Seward's Anecdotes, ii. 87 v. 67.

attainder, were not destined to be long enjoyed. The latter were dissipated by his only son John, and the former became extinct by that son's death in 1702 without male issue. One of the chancellor's daughters married Sir Thomas Stringer the judge of this reign; and the only child of John, the second baron, by his wife the Lady Caroline, daughter of the Earl of Pembroke, was married to Thomas, first Earl of Pomfret.[1]

JENNER, THOMAS.

B. E. 1686. Just. C. P. 1688.

The inscription on this judge's monument in Petersham Church (erected by his daughter Anne the wife of Sir John Darnall) informs us that he was the son of Thomas Jenner, Esq., but carries his pedigree no higher. He was born at Mayfield in Sussex in 1638, and was admitted a pensioner of Queen's College, Cambridge, in June 1655, but left the university without a degree. In 1659 he entered himself a member of the Inner Temple, and early in the next year he was fortunate enough to marry Anne the daughter and heir of James Poe, the son of Dr. Leonard Poe, physician to Queen Elizabeth and her two successors. At the coronation of Charles II. in 1661 he figured as esquire to Sir John Bramston, then created a knight of the Bath; and in November 1663, he was called to the bar. We hear little of him from this time till October 16, 1683, when the king, having previously knighted him, appointed him recorder of London, immediately after the forfeiture of the charters of that corporation. Evelyn calls him (iii. 99) at this time "an obscure lawyer." He was raised to the degree of the coif on the 23rd of January following, and was at the same time made king's serjeant.[2]

[1] Woolrych's Life of Judge Jeffreys; H. Roscoe's Life, in Lardner's Cabinet Cyclopædia; The Western Martyrology, or Bloody Assizes.

[2] Bramston's Autobiog. 118; Luttrell, i. 296; Wynne, 85.

In many of the state trials that followed he was employed to prosecute, and proved himself, if not a very efficient, a very zealous advocate for the crown. On King James's accession he was elected member for Rye, but had no opportunity of speaking during the month that its sittings lasted. The last occasion of his acting as king's serjeant was in January 1686, at the trial of Lord Delamere for high treason, who was acquitted by the Lords. A month after, on February 5, he was constituted a baron of the Exchequer in the place of Baron Gregory, and no doubt had previously satisfied the king that he would support his majesty's claim of power to dispense with the penal laws, for disputing which his predecessor had been discharged. In October 1687, he was sent with Bishop Cartwright and Chief Justice Wright on the notorious visitation of Magdalen College, Oxford, when Dr. Hough was expelled from the presidency. Among other indecencies of those iniquitous proceedings, the learned baron punned upon the president's name, saying to him, "Sir, you must not think to *huff* us." He however voted in the minority against suspending the fellows of the college.[1]

On July 6, 1688, on the resignation of Sir Christopher Milton, Baron Jenner was removed to the Common Pleas, a seat which he retained during the short remainder of the reign. Previous to the king's flight he obtained a pardon, which was soon after stolen from his chamber in Serjeant's Inn, together with 400*l.* in money; and endeavouring to escape with the king he was taken up by the Faversham men and carried to Canterbury, from whence he was removed to the Tower of London in January 1689. Here he remained till the suspension of the Habeas Corpus Act had ceased, when on his being admitted to bail by the King's Bench, the House of Commons renewed their investigation of his case,

[1] State Trials, xi. 528, xii. 36; 2 Shower, 453; Burnet, iii. 140, note.

and having previously voted that he had a principal concern in the arbitrary proceedings of the late reign, committed him to the custody of the serjeant-at-arms on October 25. He was not released till the prorogation of the Convention Parliament in the ensuing January, which was immediately followed by its dissolution. In the first session of the next parliament the bill of indemnity was passed, from which he was of course excepted by name, but this led to no further penal consequence. In February 1693, he was obliged to plead King James's pardon in answer to a charge in the Exchequer of having levied 3,000*l.* on dissenters without returning the money into court. Resuming his practice as a serjeant, we find him employed as late as 1702 in the defence of Richard Holloway charged at the Surrey assizes with being a cheat and impostor in pretending to have been bewitched.[1] He died at his house at Petersham in Surrey on January 1, 1707, at sixty-nine, leaving (besides two daughters) eleven sons, from one of whom descended the late respected dean of the Arches, Sir Herbert Jenner Fust, the last name having been assumed by him in compliance with the will of Sir John Fust, Bart., to whose family the judge's wife belonged.

With very small pretensions to law Sir Thomas Jenner was little more than a tool of the court; and that he was not only laughed at, but despised, by his contemporaries, is apparent from the following pasquinade in a supposed letter from the judge to his wife and children.

> "A wise learned serjeant-at-law I was made,
> And a fine dainty coif was put on my head,
> Which is heavier by far than a hundred of lead.
> This it is to be learned and witty.

[1] Sir John Knatchbull's MS.; Luttrell's Diary, i. 482, 486, 493, ii. 10, 612, iii. 37; Parl. Hist. v. 280, 405; Stat. of Realm, vi. 178; Hallam's Const. Hist. 3rd ed. iii. 371; State Trials, xiv. 668.

"But soon after this I was made the Recorder,
To keep the worshipful rabble in order,
And wore a red gown, with long sleeves and a border.
This it is, &c.

"By great James I was raised to the Common Pleas bench,
'Cause he saw I had exquisite politic sense,
Which his wisdom perceived in the future tense.
This it is, &c.

"At Sarum five hundred pounds have I gotten,
To save malefactors from swinging in cotton,
For which they were hang'd, and are now nearly rotten.
This it is, &c." [1]

To what particular incident this last verse alludes is not precisely known; but it has no doubt a reference to the obnoxious practice then prevalent of selling to favourites condemned prisoners, who by pecuniary fines redeemed themselves from slavery or death.

INGLEBY, CHARLES.

B. E. 1688.

FROM Sir Thomas Ingleby of Ripley in Yorkshire, judge of the King's Bench in the reign of Edward III., John Ingleby the father of the baron directly descended; his immediate ancestor John Ingleby of Lawkland in that county being the second son of Sir William of Ripley, who flourished under Henry VIII., upon a descendant of whose eldest son a baronetcy was conferred in 1642, which has since become extinct.

Charles Ingleby was admitted a member of Gray's Inn in June 1663, and took his degree of barrister in November 1671. Being a Roman Catholic he was involved, in February 1680, in a charge of being concerned with Sir Thomas Gascoigne in a plot against the king, and committed to the King's

[1] Woolrych's Life of Jeffreys, 147.

Bench prison; but on his trial at York in the following July he was acquitted, as Sir Thomas had been before. After the accession of James II. he was constituted on April 23, 1686, a baron of the Irish Exchequer; but declining to go to that country he was in May of the next year made a serjeant-at-law, and on July 6, 1688, was appointed a baron of the Exchequer in England, when he received the honour of knighthood. One of the effects of James's apprehensions on the landing of the Prince of Orange was to supersede Sir Charles in the following November, before he had been four months in office. Returning to his practice at the bar, we find him present at the York assizes in April 1693, when he was fined forty shillings for refusing to take the oaths to King William; but we have no mention of the date of his death.[1]

JONES, THOMAS.

CH. C. P. 1685.

See under the Reign of Charles II.

SIR THOMAS JONES was the second son of Edward Jones, Esq., of Sandford in Shropshire by Mary, daughter of Robert Powell, Esq., of the Park in the same county; and was descended from an ancient family, the nobility of which is traced by the Welsh heralds to a period earlier than the Conquest. His education was begun at the free school of Shrewsbury, and completed at Emanuel College, Cambridge, where he took the degree of B.A. in 1632-3. He had previously been entered at Lincoln's Inn in May, 1629, and was called to the bar on May 17, 1634. The part which he took in the subsequent troubles has been variously represented. One writer says he was one of the loyal Shropshire gentlemen taken prisoner by the parliamentary forces on

[1] Wotton's Baronet. ii. 292; Luttrell, i. 34, 51, 402, 449, 450, 482, iii. 83; Smyth's Law Off. of Ireland, 157; Clarendon's Diary, i. 409; Bramston, 275; State Trials, xii. 263.

capturing Shrewsbury; while another remarks that "his conduct spoke more of prudence than loyalty, or perhaps of time-serving than either;" adding that though "in 1662 he declared he was always for the king, yet he was never sequestered, though possessed of considerable property, but declared himself against the Commission of Array in the time of the wars, and refused to find a dragoon for the king's service; for which he was committed by Sir Francis Offley, then governor of Shrewsbury; which commitment he afterwards brought two men to testify before the parliament committee as an argument of his good affection to them;" that his brother was then recorder of Shrewsbury, and declared him from the bench well affected to the parliament; and that he was elected town-clerk of Shrewsbury by the parliamentary party, from which office he was accordingly dismissed at the Restoration.[1]

Be this as it may he was returned as one of the members for Shrewsbury to the parliament elected just previous to Charles's arrival; and again to that called in 1661; but his name does not appear in any of the debates. He acquired sufficient prominence in his profession to be dignified with the coif in the great call of 1669, and to be promoted to be king's serjeant two years after. While holding that position he was knighted; being designated with the title in his patent as a judge of the King's Bench, to which he was raised on April 13, 1676. During the ten years that he sat on the bench, seven in this court, and three as chief justice of the Common Pleas, he was engaged in most of the political trials that disgraced the latter part of Charles's reign, and the commencement of that of James II. In 1677, he properly refused to bail or discharge the Earl of Shaftesbury, imprisoned by the House of Lords. To the summing up of Chief Justice Scroggs against Edward Coleman in 1678, he

[1] Gent. Mag., 1840, pp. 2, 270.

added the unnecessary and harsh observation, "You must find the prisoner guilty, or bring in two persons perjured," such two persons being Titus Oates and William Bedlow. That he credited their testimony and that of the other witnesses to the popish plot, notwithstanding all their contradictions, is manifest in the trials that took place before him in the two subsequent years; though he afterwards found reason to change his opinions.

In Trinity Term 1680, the court of King's Bench having dismissed the grand jury suddenly so as to prevent an information against the Duke of York for not going to church, the House of Commons directed Chief Justice Scroggs and Justice Jones to be impeached; but the parliament being soon after prorogued the proceedings were not renewed. In the trials of Fitzharris, Dr. Plunket, and Colledge, in 1682, and of Lord Russell in 1683, there is nothing to distinguish Justice Jones favourably from the other judges who sat on them. In the absence of Chief Justice Saunders, he pronounced in June 1683, the judgment of the court in favour of the king taking the charter of the City of London into his hands; and on September 29 following he was rewarded by being promoted to succeed Sir Francis North as chief justice of the Common Pleas. On the subsequent trials of Fernley, Ring, Eliz. Gaunt, and Alderman Cornish, at which he presided, he showed great severity and harshness; and the attainder of the latter was reversed at the revolution.[1] But still he was too honest and plain-spoken for King James. On being pressed by his majesty to declare himself in favour of the royal dispensing power, he said he could not do it; and on the king's answering that "he would have twelve judges of his opinion," he replied that possibly his majesty might find twelve *judges* of his opinion, but scarcely twelve

[1] State Trials, vols. vi. to xi.; Parl. Hist. iv. 1224, 1261, 1273.

lawyers.[1] He was accordingly dismissed from his place with three other judges on April 21, 1686.

At the revolution he was called before the House of Commons to account for a judgment of the court of King's Bench in the case of Jay v. Topham, the serjeant-at-arms, pronounced six years before, and was committed with Chief Justice Pemberton for the supposed breach of privilege on July 19, 1689, sharing the imprisonment with his chief till the prorogation of the parliament.[2] He died in May, 1692, aged seventy-eight, and was buried in St. Alkmund's Church, Shrewsbury, where his monument still remains.

Roger North describes Sir Thomas as "a very reverend and learned judge, a gentleman and impartial; but being of Welsh extraction was apt to warm, and when much offended often shewed his heats in a rubor of countenance set off by his grey hairs, but appeared in no other disorder, for he refrained himself in due bounds and temper and seldom or never broke the laws of his gravity."[3] Looking however to his whole professional career he appears to have exhibited too great a tendency to accommodate himself to the court or to the popular party, as the one or the other predominated; and his claim to the title of an upright judge is principally founded on his resistance to the king's dispensing power.

By his wife, Jane daughter of Daniel Bernand, Esq., of Chester, he had three sons, William, Thomas, and Edward, from the latter of whom descended Catherine, who married Captain John Tyrwhitt, whose son Thomas, succeeding to the estates, assumed the name of Jones, and was created a baronet in 1808.[4]

[1] Kennett's Hist. iii. 451.
[2] State Trials, xii. 822.
[3] Examen, 563.
[4] Gent. Mag. *ut supra.*

LEVINZ, CRESWELL.

Just. C. P. 1685.

See under the Reign of Charles II.

Descended from an ancient and respectable family, seated at Levinz Hall in Westmoreland, Creswell Levinz, son of William Levinz, was born about 1627 at Evenle in Northamptonshire. He was admitted a sizar of Trinity College, Cambridge, in 1648, but took no degree. His knowledge of the law he acquired at Gray's Inn to which society he was admitted in November 1655, and having been called to the bar in November 1661, was made a bencher in 1678, and became treasurer in the following year. What part he took during Cromwell's sway we do not learn; but we find his name in the reports of T. Raymond, Hardres, and Shower, from the earliest years of the Restoration. About 1678 he was appointed king's counsel and knighted, both these titles being given him in December of that year, when he opened the indictment against Ireland, Pickering, and Grove, for high treason. In 1679 he was employed for the crown in the several prosecutions arising out of the popish plot; and joining as he apparently did in the popular belief in the plot and in reliance on the witnesses who supported it, he conducted them with great decency and fairness. On the retirement of Sir William Jones in the October of that year, he was appointed attorney-general, and during the sixteen months that he held that office he took the lead in many other trials of persons implicated in the same charge; in three of which the prisoners were acquitted, viz. Sir Thomas Gascoigne, Mr. Collier, and the Earl of Castlemaine; and in all of which he showed as much lenity as was consistent with his position.

In December 1679, he was directed by the king in council to prepare the famous "proclamation against tumultuous

petitions," which was followed by a multitude of addresses from all parts of the kingdom, expressive of the most devoted loyalty, and great abhorrence of the petitions aimed at. The promoters were stigmatised by the name of abhorrers, and in the succeeding parliament, the opposition, which then had the ascendency, took violent measures against them. Sir Creswell was called to account and required to state who assisted him in drawing up the proclamation; a demand which he at first resisted, stating that he alone was responsible; but on being strongly pressed he at last was compelled to give up the name of Chief Justice North. For this he is visited by Roger North with rather unnecessary blame. If he had persisted in his refusal, he would have certainly incurred great personal risk, without benefiting any one; and he knew that the proclamation was so cautiously worded that no harm could come to the chief justice; the threatened impeachment against whom, soon dropped to the ground.[1]

On the death of Sir William Ellis he gained his promotion as a judge of the Common Pleas, his patent being dated February 12, 1681. He filled that seat for five years respected for his legal knowledge and upright conduct. Soon after the accession of James II. he was joined with three other judges in the commission to Sir George Jeffreys on the "bloody assizes" in the West; but little is related with reference to that horrible visitation implicating any other judge than the brutal chief justice. On February 6, 1686, he suddenly received a supersedeas to discharge him from his office, "whereto," he modestly says in his reports, "I humbly submit;" and when called upon by the House of Commons in 1689 to explain the cause of his dismissal, he said "I thought my discharge was because I would not give

[1] North's Examen, 546–54; Life of Lord Guilford, 176.

judgment upon the soldier who deserted his colours, and for being against the dispensing power."[1]

Sir Creswell immediately returned to the bar, and Bramston (p. 221) says, he "is not likely 'tis thought to loose by the change." That this prophecy was well founded is evident from the contemporary reports, in which his name frequently appears. On the trial of the seven bishops in 1688, he was one of the counsel employed in the defence. By Lord Macaulay's account (followed by Lord Campbell), Sir Creswell "was induced to take a brief against the crown, by a threat of the attorneys that if he refused it he should never hold another." The authority his lordship cites for this extraordinary statement seems hardly sufficient to overthrow the contrary impression which Sir Creswell's conduct tends naturally to produce. He appears to have played a very active part in the trial, and to have taken the objection that there was no proof of publication in Middlesex, which very nearly put an early end to the case of the crown. This does not look as if his was a compulsory or unwilling appearance: and the fact that his brother, Baptist Levinz was Bishop of Sodor and Man will more probably account both for his being engaged, and for the energy of his advocacy.[2] He continued to practise up to 1696 when his reports terminate. They were published in three parts the year after his death, which occurred on January 29, 1701, at Serjeants' Inn, Fleet Street. He was buried at Evenle, where there is a monument to his memory. Lord Hardwicke says of him that though a good lawyer he was a very careless reporter.

By his wife, Mary daughter of William Livesay of Lancashire, he had three children, of whom only his son William survived; who and whose son after him were members for

[1] Levinz's Reports, iii. 257; Parl. Hist. v. 313.

[2] Macaulay, ii. 376; Campbell's Ch. Just. ii. 48; State Trials, xii. 320, &c.

Nottinghamshire, in which county the judge had purchased an estate called "The Grove."[1]

LUTWYCHE, EDWARD.

JUST. C. P. 1686.

EDWARD LUTWYCHE was the son and heir of William Lutwyche of an old Shropshire family of respectability, which is now extinct. His father was dead before May 1652, when he was admitted a member of Gray's Inn, by which society he was called to the bar in June 1661, and elected an ancient in 1671. Receiving the distinction of the coif in 1683, he was made king's serjeant on February 9, 1684, and knighted. In October of the following year King James conferred upon him the chief justiceship of Chester in succession to Sir Edward Herbert, and raised him to the bench of the Common Pleas on April 21, 1686, in the place of Sir Job Charleton, where he continued to sit till the abdication. He fell with his sovereign, and in consequence of his having concurred in the royal claim to dispense with the penal laws in Sir Edward Hale's case, he was excepted out of the act of indemnity passed in the next reign. Returning to the bar he was fined at the York assizes in April 1693, for refusing to take the oaths; but he continued to practise till 1704, as his "reports and entries" to that time show. He died in June 1709, and was buried at St. Bride's, London.[2]

MAY, RICHARD.

CURS. B. E. 1685.

See under the Reign of Charles II.

IN the admission book of the Middle Temple Richard May is described as fourth son of John May of Rawmere in

[1] Noble's Contin. of Granger, i. 167; Legal Bibliog. 192; Thoresby's Thoroton's Notts, iii, 264; Luttrell, v. 12.

[2] Noble's Contin. of Granger, i. 169; Bramston, 207; Luttrell, iii. 83; 2 Shower, 475; Parl. Hist. v. 334; Stat. of Realm, vi. 178.

Sussex, Esq. This John was brother to Sir Humphrey May, who held many valuable places under James I. and Charles I., from the latter of whom he had a grant of the office of master of the Rolls in reversion after the death of Sir Julius Cæsar, whom however he did not survive. Richard's mother was Eliza Hill, daughter of a merchant in London. He began his legal education in January 1632, and was one of the performers in Davenant's masque of the "Triumphs of Prince D'Amour," represented before Charles, the Elector Palatine, in 1635. Though called to the bar in May 1639, we hear nothing further of him till the Restoration. Having then been elected recorder of Chichester, he was chosen member for that city in 1673, on a vacancy during the second parliament of Charles II., and was re-elected to the third parliament in 1679. The honour of knighthood was conferred upon him in May 1681, on presenting an address thanking the king for his declaration on the dissolution: and on March 17, 1683, he succeeded Francis Crawley as cursitor baron of the Exchequer. He was again returned for Chichester in 1685, to the only parliament called by James II., before the termination of whose reign he died; his place in the Exchequer being filled by Mr. Carr in March 1688, and Thomas May, his nephew and successor in the recordership, being the representative of Chichester in the Convention Parliament which met in January 1689.[1]

MILTON, CHRISTOPHER.

B. E. 1686. Just. C. P. 1687.

Christopher Milton the lawyer, was the brother of John Milton the poet. How wide the difference in their several careers! How great the contrast between the republican and the royalist, the puritan and the catholic, the

[1] Hay's Chichester; Ath. Oxon. iii. 807; Luttrell, i. 91, 557; Pat. 35, Car. II. p. i. 26.

Latin secretary of the usurper Cromwell and the subservient judge of the despotic James! The lustre that shines round the head of the poet, and which time has not dimmed, has thrown so much light on the lineage of the family, that it is not necessary to trace it higher here than to his parents. John Milton, a scrivener of London, living in Bread Street, Cheapside, at the sign of the spread eagle (the family crest), by his marriage with Sarah Bradshaw (a kinswoman of the Lord President Bradshaw) was the father of three daughters and two sons, John born in 1608, and Christopher born in 1615.

Christopher after passing through St. Paul's school was admitted a pensioner of Christ's College, Cambridge, on February 15, 1631, but took no degree at the University. Being destined for the law he was entered at the Middle Temple on September 22, 1632, and having been called to the bar on January 26, 1639, he reached the grade of bencher in November 1660, and of Autumn reader in 1667. During the civil wars he took part against the parliament, acting as "commissioner for the king for sequestering the parliament's friends of three counties; and afterwards went to Excester and lived there, and was there at the time of the surrender." In an entry on the journals dated August 25, 1646, he is described "of Reddinge in the county of Berks, counsellor at lawe," and having then taken the national covenant is allowed to compound for his "delinquency" by a fine of 200*l.* on "a certain messuage or tenement situate in St. Martin's parish Ludgate, called the signe of the Crosse Keys, of the yearely value before theis troubles, 40*l.*" At this time his brother John, though he had published some controversial works, had not acquired any influence with the ruling powers; but when the commissioners for sequestrations, not content with Christopher's return of property in London, wrote in 1651-2 into Berks and Suffolk to inquire if he had any pos-

sessions in those counties, John Milton was Latin secretary to the Protector. That he did not take any ostensible part on behalf of his brother may be attributed to a doubt whether his connection with a "delinquent" might not endanger his political position; but that he exerted his private influence to mitigate the pressure seems very probable, for it does not appear that Christopher ever paid more than half of his fine; and it is manifest that no estrangement existed between the brothers. On the contrary Christopher acted in 1653 as counsel before the commissioners of relief for Mrs. Powell the mother of his brother's wife, and they continued on friendly and affectionate terms up to the time of his brother's death in 1674. He was also employed in other causes against the government during the Commonwealth.

Showing himself thus no friend to the republicans, it was natural that King Charles at the Restoration, on giving a charter to the town of Ipswich, should constitute Christopher Milton the first deputy-recorder of it. Here he took up his residence, and it is probable confined himself to country practice, for he is not noticed in the Reports of the time. It is not precisely known when he turned Catholic, which was the faith of his grandfather; but it was probably that conversion and his high prerogative ideas that led to his selection by James, on April 26, 1686, as a baron of the Exchequer in the place of Baron Neville discharged for impugning the king's dispensing power. He was thereupon knighted: and after sitting in that court for a year he was removed on April 17, 1687, to the Common Pleas, receiving a dispensation from subscribing the test. On July 6, in the following year he had a writ of ease, with a continuance of his salary, on account of his age, which one would think would have been a sufficient reason for not appointing him little more than two years before, when he was

seventy-one years old. He retired to Rushmere in Suffolk where he had a residence as well as in Ipswich; and dying five years afterwards, in March 1693, was buried in the church of St. Nicholas in the latter town. He was apparently of a quiet and easy disposition, but of no literary or legal eminence.

His wife, Thomasine daughter of William Webber of London, whom he married in September 1638 while yet a student, brought him several children, of whom his son Thomas was deputy clerk of the Crown in Chancery.[1]

MONTAGU, WILLIAM.

CH. B. E. 1685.

See under the Reign of Charles II.

CHIEF BARON MONTAGU is the fourth member of the family whose connection with the law has been recorded in these pages. Both his great-grandfather Sir Edward, and his uncle Sir Henry, filled the office of chief justice of the King's Bench, the former in the reigns of Henry VIII. and his successor, and the latter (afterwards Earl of Manchester) in that of James I.; and the second earl was first commissioner of the Great Seal at the restoration of Charles II. The chief baron's father was the elder brother of Sir Henry the first earl, and was himself ennobled in 1621 by the title of Baron Montagu of Boughton. By his second wife Frances, sister of Sir Robert Cotton, Bart., he had three sons, the youngest of whom was William, the subject of the present sketch. The third baron was created Duke of Montagu by Queen Anne, but on the death of the second duke in 1749 without male issue all the titles became extinct.

[1] Papers of John Milton (Camden Soc.), pp. 43, 45, 55, 61, 64, 123, 128–30; Dugdale's Orig. 169; Bramston, 225, 274, 278, 283,311.

William Montagu was born about the year 1619, and though he was entered of Sidney Sussex College, Cambridge, in 1632, he took no degree at the university. The Society of the Middle Temple to which he was admitted in 1635 called him to the bar in 1641, and made him a bencher in 1662, treasurer in 1663, and Autumn reader in 1664. He became attorney-general to the queen in June 1662, and so continued till he was raised to the Bench on April 12, 1676, being then appointed lord chief baron of the Exchequer, where he presided for ten years. Very few incidents of his judicial career are recorded. At the trial in 1678 of Ireland and four others for high treason before him and chief justice Scroggs, the evidence not being sufficient against two of the prisoners, Whitebread and Fenwick, they were set aside after all the witnesses for the prosecution had been heard; which would in all fairness have entitled them to an acquittal. But the chief baron directed the gaoler to keep them strictly, saying they were "in no way acquitted;" thus deciding, according to the cruel practice of the time, that though their lives had been clearly in jeopardy they might be tried again; which was done shortly afterwards and they were both found guilty and executed. Though called as a witness by Titus Oates on his trial for perjury in 1685, he acknowledged that he "never had any great faith in him." In the same year he accompanied Chief Justice Jeffreys on the western assizes to try the prisoners concerned in Monmouth's rising; but we do not find that he personally took any other part in those brutal proceedings than to urge a reluctant witness to speak the truth. Soon after when King James, having madly resolved to do away with the Test Acts, found that the chief baron and some of the judges were opposed to his opinion, he determined to put others who were more pliant into their places. Accordingly on April 21, 1686, Chief

Baron Montagu and three of his colleagues received their discharge.[1]

He survived his removal for eleven years, dying in 1707. His wife Mary daughter of Sir John Aubrey, Bart., brought him three children; but their issue, if they had any, had all failed in 1749, when his father's great grandson, the second Duke of Montagu died, and the barony of Boughton became extinct.[2]

NEVILL, EDWARD.

B. E. 1685.

See under the reigns of Charles II. and William III.

NORTH, FRANCIS, LORD GUILFORD.

LORD KEEPER, 1685.

See under the Reign of Charles II.

THE family of North was long connected with the law. Edward, the first Lord North of Kirtling (or Cartlidge) in Cambridgeshire, created in 1554, was king's serjeant under Henry VIII., and married the widow of Lord Chief Baron Sir David Brooke. His eldest son Roger the second lord married a daughter of Lord Chancellor Rich; and his second son Sir Thomas was of Lincoln's Inn in the time of Queen Mary. His grandson married the daughter of Sir Valentine Dale, master of the requests in Elizabeth's reign; and the lord keeper now to be noticed was the second son of the fourth Lord North by Anne, daughter and coheir of Sir Charles Montagu.

Francis North was born on October 22, 1637. Being nearly thirty years old when his grandfather died, and his father having fourteen children to provide for, his introduction

[1] State Trials, vii. 120, x. 1168, xi. 344; Bramston, 193.

[2] Burke's Ext. Peerage; Pepys, i. 38; Evelyn, ii. 323.

into the world was necessarily accompanied by a very limited provision. How he rose to the eminence he attained, and how he acted throughout his career, have been so pleasantly told by Roger North, whose biography of his illustrious brother is indeed the foundation of all succeeding memoirs, that it is needless to acknowledge that the following pages are deeply indebted to its interesting details.[1]

The early politics of his father as a member of the Long Parliament and his subsequent disgust at its proceedings, for he was secluded by Pride's Purge, sufficiently account for the changes in Francis's education. It was commenced under the tutelage of one Mr. Willis, a rigid Presbyterian, who kept a school at Isleworth; he next was sent to Bury school, where Dr. Stevens the master was a cavalier; and lastly he was matriculated as a fellow commoner at St. John's College, Cambridge, in June 1653. At each, he was a diligent student, and his advances in all branches of learning are particularly recorded. On November 27, 1655, he was removed to the Middle Temple, occupying the moiety of a petit-chamber which his father bought for him. His uncle Mr. Challoner Chute, who died shortly after as Speaker of Protector Richard's Parliament of 1659, was then treasurer of the inn, and swept the admission-fee into the new student's hat, saying, "Let this be a beginning of your getting money here." With his limited allowance he was obliged to avoid the expensive practices then prevalent among his fellows, his principal relaxation being music, in which he was a great proficient. He used to say that if he had not had his base or lyra viol to divert himself alone, he had never been a lawyer. Knowing that he should be dependent on his profession he pursued his studies with unremitting assiduity; common-placing all he read, and constantly attending at

[1] Life of Lord Guilford, by the Hon. Roger North, 1742.

moots and readings and at the courts at Westminster; yet not neglecting those sciences without some knowledge of which no one can become great in the law. After acquiring some experience by keeping the courts of his grandfather and of some other relations, and proceeding regularly through the ordinary course of instruction, he was called to the bar on June 28, 1661, and began his practice in a chamber in Elm Court; soon having a fair share of business, and being lucky enough to recover for his college an estate, for which it had long had an unsuccessful litigation.

Sir Geoffrey Palmer, the attorney-general, was his greatest patron and friend, not only directing his reading while a student, but encouraging his practice as a barrister, by giving him junior briefs in state prosecutions [1], and sometimes even employing him as his substitute. Among other duties the attorney-general engaged him to argue for the crown before the House of Lords on the writ of error brought by the five members who had been convicted of a breach of the peace in holding the Speaker Finch down in his chair in the reign of Charles I. Although unsuccessful, he so pleased by his manner and reasoning that he was immediately made king's counsel, and thereupon, after a little demur by the benchers on account of his youth, which subjected them to a rebuke by the court, he was called to the bench of the Middle Temple on June 5, 1668. Before this advancement in his profession he had a plentiful business both at Westminster and on the Norfolk circuit. On the latter his success was greatly aided by his being placed as chairman on the commission for dividing the Fens, and being constituted by Bishop Lane judge of the isle of Ely. He was a favourite with Chief Justice Hyde and many others of the judges; and Chief Justice Hale, though prejudiced against him, had so

[1] State Trials, vi. 520, 540, 549, 554, 559, 880.

good an opinion of his talents that, seeing him pushing through the crowd to get into the court, he called out to the people to "make way for the little gentleman," adding, "for he will soon make way for himself."

On the promotion of Sir Edward Turnour to be chief baron in May 1671, North was selected to fill the office of solicitor-general; when he received the honour of knighthood. He soon after established himself in the Court of Chancery, having previously practised principally in the King's Bench. This change of court was probably influenced in a great measure by the appointment of Sir Matthew Hale as the head of the latter; for it appears plainly that each had such a violent dislike to the other as was likely to lead to frequent contentions. In the autumn following he became reader to his inn, when he took the statute of fines for his subject. His brother Roger records that the expense of his feasts was 1,000*l.* at least; the extravagance of which and of some other recent ones deterred others from continuing the practice; and from that time public readings ceased. Thus was an ancient custom abolished, which, if it be true that it was usually accompanied by disorder and tumult, was

"More honour'd in the breach than the observance."

Up to this time Sir Francis continued in chambers, but on his marriage in March 1672 with Lady Frances Pope, one of the daughters and coheirs of Thomas, third Earl of Down, he removed to a house in Chancery Lane near Serjeants' Inn, which had been the residence of Chief Justice Hyde, where he remained till he became lord keeper. He soon after was returned to parliament for the borough of Lynn, and when he was made attorney-general he was allowed to keep his seat, no notice being taken of the disqualification which the possession of that office was formerly deemed to impose. His advancement to the attorney-generalship took place on

November 12, 1673, on Sir Heneage Finch's being appointed lord keeper; and his promotion to the bench occurred fourteen months afterwards; so that his experience in parliament was of short duration, for though he sat in three sessions, they did not altogether occupy three months.

The death of Chief Justice Sir John Vaughan in December 1674 made a vacancy in the Court of Common Pleas to which Sir Francis joyfully succeeded on the 23rd of the following January, being already tired of the bustle and turmoil of his former place, although the profits of it greatly exceeded those of the chief justice; his brother representing the former as amounting to 7000*l.* a year, while the latter did not exceed 4000*l.* One of the first attempts of the new chief justice was to restore the proper business of the Common Pleas, which had been almost entirely diverted from that court to the King's Bench, by means of the *ac-etiam* inserted in the writ of Latitat. In this he succeeded by a similar introduction in the Common Pleas writ; thus equalising the business of the two courts to the manifest benefit of the suitors in each. Soon after he was appointed the ridiculous scene called the Dumb-day, as described in a previous page, was enacted: the result of which satisfied the rebellious serjeants that their new chief would not allow the court to be insulted with impunity. His brother enlarges on Sir Francis's labours to improve the rules and regulate the practice of his court, and applauds him for restraining counsel where unnecessarily diffuse, for confining the evidence to the point in dispute, and for conducting himself with that temper, discretion, and care which become a wise and an honest judge: —merits by which other judges would probably be found to be equally distinguished, had their actions been minutely recorded by so partial a biographer. But though his brother's eulogy may be exaggerated and is sometimes fulsome, there is no doubt that the chief deserved the praise of an able and

honest administrator of justice, acting with exemplary prudence in party cases, neither showing any bias towards either side, nor affecting to conceal the loyal principles which guided him. The only exception that can be suggested is his conduct on the trial of Stephen Colledge, when he refused to restore the papers provided for the prisoner's defence which had been forcibly taken from him. The judge's friendly biographer attempts a justification, but in a lame and unsatisfactory manner; and Burnet cautiously says that if the judge "had lived to see an impeaching parliament he might have felt the ill effects of it."[1]

For four years he enjoyed the quiet of a judicial life unbroken by the anxieties of politics. But in 1679 he was joined to the newly-formed council of thirty, by whom the government of the country was to be administered, being selected as one of the members to counterbalance those of the country or opposition party at the same time introduced. When that council was dissolved Sir Francis was admitted into the cabinet; and for advising and assisting the Attorney-General Levinz in the preparation of the proclamation against tumultuous petitions, by which the addresses of the so-called abhorrers were encouraged, the new parliament, without hearing him, ordered an impeachment against him on November 24, 1680. The committee appointed to prepare it however must have found it no easy task, as they failed to produce it before the dissolution on January 18.[2] Having acquired the entire confidence of the king, he became one of his majesty's chief advisers, and during the last years of the life of Lord Chancellor Nottingham, who entertained for him a sincere friendship, he was of great assistance to his lordship in his illnesses and frequently acted for him as speaker of the House of Lords. On that nobleman's death there was no doubt as to his successor, and accordingly Sir Francis was

[1] State Trials, vii. 551; Burnet, ii. 284. [2] Parl. Hist. iv. 1229.

made lord keeper on December 20, 1682, two days after that event; and at the same time a pension of 2000*l.* a year was added according to the practice which had previously been adopted. The king on presenting the Great Seal to him accompanied the gift with this prophetic warning; "Here, take it, my lord, you will find it heavy;" the truth of which was afterwards acknowledged by the recipient, who declared that since he had had the Seal he had not enjoyed one easy or contented minute. He held it as long as King Charles lived, and under King James till his own death; and in less than a year after his appointment he was called to the peerage by the title of Baron Guilford, his patent being dated September 27, 1683.

While lord keeper he devoted himself as far as his leisure would permit him, to the correction of some of the abuses for which the Court of Chancery was even then notorious. But the period of his presidency was too short, for one so cautious in making innovations, to effect all the improvements he contemplated. He succeeded however in restraining unnecessary motions too commonly made for the purpose of delay, and introduced many wholesome regulations that rendered the proceedings less expensive and oppressive to the suitors. To Roger North's encomium of the justice of his decisions no substantial objection is found by other writers, though party spirit vented some frivolous strictures at the time.

During the latter part of his career, as well under the reign of Charles II. as after the accession of James II., Sir George Jeffreys exerted the utmost art and cunning to supplant him, seizing every opportunity to insult and entrap him, and using language the most coarse and contemptuous. But the reliance which both kings placed on his wisdom and his honesty foiled all such underhand endeavours; and though it is probable that the lord-keeper's disinclination to support

James's encroachments on the constitution would have eventually occasioned his removal, such a consummation was prevented by his death seven months after the close of Charles's reign. For the greatest part of that short period he was afflicted by illness, which at last obliged him to retire to his seat at Wroxton (an estate derived from his marriage); where after several weeks of suffering, he died on September 5, 1685. As this was but three days after the execution of Lady Alice Lisle, the first victim of Jeffreys' bloody campaign, Roger North's statement, that the lord keeper moved the king to put a stop to those violent proceedings, can scarcely be correct, but most likely was confused in the memory of the partial biographer with some other remonstrances made by his brother against Jeffreys' earlier acts. Both Lord Guilford and his wife, who died some years before him, were buried in the vault of the Earls of Down in Wroxton church. She brought him three sons and two daughters. His grandson, the third lord, was created in 1752 Earl of Guilford, having also by the death of his cousin the sixth Lord North without children in 1734 succeeded to that barony. Both titles were held together till the death of the third earl in 1802 with only three daughters; between whom the barony of North remained in abeyance till 1841, when, two of them having died, it devolved upon the third, the present baroness. Two of the last earl's brothers enjoyed the earldom successively, and upon the death of the last of them, it descended to his cousin Francis, the grandson of the first earl, and son of Brownlow North, bishop of Winchester, whose grandson, a minor, is its present possessor.

Of the life and character of the lord keeper there are two leading biographers, neither to be entirely depended on. The one is Roger North, his affectionate brother and constant companion, who, detailing every incident of his life and

recording his inmost feelings and thoughts, cannot speak of his actions but in terms of praise. The other is Lord Campbell, who writing nearly two centuries after his death, and using precisely the same materials, speaks of him with all the bitterness of party prejudice; ridiculing his respectability, sneering at his caution, disparaging his law, and in general giving a jaundiced colouring to his most worthy acts; evidently grudging the faint praise which he sometimes is obliged to bestow.

The following introduction to his life sufficiently displays the spirit in which it was written. "We now come to one of the most odious men who ever held the Great Seal of England. He had not courage to commit great crimes; but selfish, cunning, sneaking, and unprincipled, his only restraint was a regard to his own personal safety, and throughout his whole life he sought and obtained advancement by the meanest arts."[1] We may perhaps trace the reason for his lordship's vituperation in his desire to give variety to his work, by forming a contrast with his previous memoir of the Earl of Nottingham. We are more inclined to adopt the summary given by another writer, of the same politics as Lord Campbell, as truer and more just. In reference to the partial character given by Roger North, he wisely says:—"It is proper to regard him in connexion with the times in which he lived, and with the state of feeling and scale of principle which then prevailed. If in his public character Lord Guilford never rose above the prejudices and feelings of the age, he did not, like many of his contemporaries, sink without shame into those corrupt practices with which the higher ranks of society were infected. He was unstained by that loose prostitution in politics, and by that abandoned corruption which darkened the characters of Sunderland and

[1] Lord Campbell's Chancellors, iii. 429.

Jeffreys. Honest in his opinions and in the expression of them, he refused on more than one occasion to sacrifice them to his interests. But his character was altogether destitute of elevation. Possessing none of the elements of greatness, seldom in mind and never in feeling did he rise above mediocrity. He was thus led into meannesses, and sometimes into compliances, which men of loftier principles would have despised. Though not altogether free from the imputation of corruption in his judicial station, the accusation rests upon no substantial foundation, and his general character renders the justice of it improbable. Perhaps the most valuable quality which the lord keeper possessed was that discretion which in all the transactions of life is so sure a guide, and which enables a man of moderate power to accomplish what the highest genius and talent, if misdirected, must fail to attain. As a lawyer, the name of Lord Keeper Guilford has always maintained a respectable station; but it does not occupy the foremost rank. To his efforts to effect a reform both in the Common Pleas and in the Court of Chancery, the greatest credit is due. In private life his character was certainly excellent. Under all the toils of office, and amid the distractions of political life, he sedulously maintained that affectionate intercourse with his own family, the loss of which is ill supplied by all that the most successful ambition can offer. The fervent attachment, the regard approaching to reverence, which were felt for him by his brothers, and which are so quaintly but beautifully expressed by his biographer, bear a striking testimony to the worth and goodness of his heart."[1]

Even Bishop Burnet gives him credit for "parts far beyond" Lord Nottingham, adding *more suo*, that "they were turned to craft; so that whereas the former seemed to

[1] Lives of Eminent British Lawyers, by Henry Roscoe, p. 110.

mean well even when he did ill, this man was believed to mean ill even when he did well." To this may be added the opinion given in the Diary of Evelyn, another of his contemporaries, with whom and other eminent men of the day he kept up a cordial acquaintance. "He is a most knowing, learned, and ingenious man, and being an excellent person, of an ingenuous and sweet disposition, very skilful in music, painting, the new philosophy, and politer studies."[1]

POWELL, JOHN.

JUST. C. P. 1686. JUST. K. B. 1687.

See under the reign of William III.

POWELL, THOMAS.

B. E. 1687. JUST. K. B. 1688.

THERE are three contemporaneous judges of the name of Powell, the Christian name of one being Thomas, and of two being John; of whom two sat on the bench in the reign of James II., two in that of William III. and for a short time in the same court, and one of them in the reign of Queen Anne. It is difficult always to distinguish them, and it is therefore not surprising that writers have frequently appropriated to one the character and the anecdotes and even the lineage which belong to another of his namesakes. Thomas the subject of this memoir is not so liable to this misapprehension as the two Johns. He was of Welsh extraction, tracing his lineage to the princes of North Wales. His father was John Powell of Llechwedd Dyrys in the county of Cardigan; and his mother was Anne, daughter of Thomas Pryce of Glanfread. On his admission to Gray's Inn in March 1655, he is described as of Staple

[1] Burnet's Own Time, ii. 332; Evelyn's Diary, iii. 73.

Inn, where probably he was initiated in legal studies. He was called to the bar in July 1660; and after nearly four and twenty years' practice, he was sworn a serjeant on the first day of Hilary Term, 1684.

Three years after on April 22, 1687, he was appointed a baron of the Exchequer on Sir Christopher Milton's retirement, and was then knighted: and on July 6 in the next year he was removed to the King's Bench in the place of Sir John Powell, turned out for the bold expression of his opinion in the case of the seven bishops. He had little opportunity of shewing his legal ability, for his judicial career terminated a few months afterwards with the flight of the king. He survived his removal from the bench for sixteen years and died in January 1705. He married Elizabeth, daughter and heir of David Lloyd of Aberbrwynen, by whom, besides other children, he left a son whose descendant still occupies the family seat at Nanteos in Cardiganshire, and represents that county in parliament.[1]

ROTHERAM, JOHN.

B. E. 1688.

JOHN ROTHERAM was admitted fellow of Lincoln College, Oxford, in 1648, as of kin to Archbishop Rotheram the second founder, who was lord chancellor in the reign of Edward IV. The family afterwards settled at Luton in Bedfordshire, where the judge was born. His father was the Rev. John Rotheram, vicar of Boreham and rector of Springfield in Essex, in which county the judge afterwards purchased the manor of Waltham Abbey. He took his degree of B.A. in 1649 and of M.A. in 1652; and received his legal education at Gray's Inn, where he was admitted on

[1] Burke's Land. Gentry, 1062; Bramston, 275, 311; Luttrell, 514.

August 7, 1647, called to the bar on May 18, 1655, and elected ancient in November 1671.[1]

Adopting the popular side in politics he drew the plea which Algernon Sidney put in on his trial; and in the prosecution of Richard Baxter, when Mr. Wallop had been brutally put down by Chief Justice Jeffreys, Rotheram stood up for some time boldly in defence, but all to no purpose. Being applied to by order of King James to know "whether he was for the dispensing power," he answered "No, he was against it; for it was both against law and reason." He was therefore naturally surprised that he was selected for promotion, "as he thought it was enough to have hindered any man from being a judge, so freely to declare his opinion as he had done." So he expressed himself in his examination before the House of Lords in December 1689.

His promotion as a baron of the Exchequer took place on July 6, 1688, a week after the trial of the seven bishops. Notwithstanding their acquittal, King James directed the judges in the circuits that immediately followed to speak against them; and Archbishop Sancroft afterwards informed the king that the new baron attacked them, "and endeavoured to expose them as ridiculous, alleging that they did not write English, and it was fit they should be corrected by Dr. Busby for false grammar." This no doubt was the baron's cunning method of avoiding the political part of the question.[2] His judicial career was not of long duration, terminating a few months afterwards with James's flight from the kingdom; and leaving him with the title of knighthood and the grade of a serjeant, to resume his practice at the bar. Bramston calls him "a phanatic," and Anthony

[1] Fasti Oxon. ii. 120, 170; Morant's Essex, ii. 88; Gray's Inn Books.

[2] State Trials, ix. 988, xi. 499, xii. 504; Woolrych's List, 65.

Wood a "dissenter from the Church of England;" but he seems to have been an honest and zealous advocate. James appointed him high steward of Maldon under the new charter, and his son became recorder of that place. Evelyn mentions Sir John as a Trustee for Boyle's lectures as late as May 1696.[1]

STREET, THOMAS.

Just. C. P. 1685.

See under the Reign of Charles II.

In the city of Worcester the family of this judge had for a long time held a considerable position, one of them having represented it in parliament in the reign of Queen Elizabeth, and several of them having ranked among its bailiffs and mayors. Sir Thomas, who was born there in 1625, held for some years the office of town clerk to the corporation, and was in such esteem with his fellow-citizens that he was returned by them to the four successive parliaments of 1659, 1660, 1661, and 1679. He was also sub-secretary to the dean and chapter of Worcester from 1661 to 1687, and from 1663 was one of their "consiliarii," having for his colleague Sir William Morton, who became a judge of the King's Bench. So highly did the chapter appreciate Mr. Street's services that they presented him in November 1668 with 30*l.*—the purse containing which is entered as costing one shilling.[2]

He was partly educated at Oxford, but in consequence of the illness and death of his father, George Street, in 1643, he left the University, after staying two years, without taking a degree, being called home to manage the paternal estate. A petition against his return to Protector Richard's parliament was presented, charging him with having borne arms for the king and with being a common swearer; and

[1] Bramston, 311; Evelyn, iii. 320, 327, 352.
[2] Treasurer's Accounts, Worcester Cathedral.

also that he was chosen by the profane rabble and cavaliers. When called upon to answer he said, "This is the first time that ever I was accused of any crime, public or private." In the Committee of Privileges, where Mr. Finch, afterwards Lord Nottingham, defended him, evidence was given of his siding with the royalists in 1645, of his being taken prisoner by the parliament army, and being exchanged. This was met by a denial that he ever used a sword against the parliament, that his capture was accidental, and that he refused the exchange; and the charge of swearing dwindled down to his having used the words "by my faith and troth." The Report was repeatedly adjourned till the dissolution; the House evidently scouting the complaint, as the offence of a youth not of age, which had been passed over unnoticed for twelve or thirteen years.[1]

His legal education began at the Inner Temple on November 22, 1646, and having put on his gown on November 24, 1653, he rose to the position of bencher on November 7, 1669. There is no evidence of his practice till the Restoration, and even then it seems to have been confined to the country. In July 1660 he obtained a grant of the office of receiver of the fines under the statutes concerning sewers.[2] In February 1677 he was appointed a judge of assize for the counties of Glamorgan, Brecon, and Radnor; and in the next Michaelmas Term he was honoured with the coif. From this he was promoted on October 25 in the following year to be king's serjeant; but he does not appear to have had any employment in the Courts of Westminster. On April 23, 1681, being then the chief justice on his Glamorgan circuit, he was constituted a baron of the Exchequer and knighted; and in the same year at Derby assizes he condemned George Busby for high treason, as a Romish priest, but reprieved him. In 1683 he was in the commission for

[1] Burton's Diary, iii. 70, 253, 425, iv. 244.

[2] Cal. State Papers, 1660, 144.

the trials at the Old Bailey of those who were charged with being concerned in the Rye House plot, but did little more than give his opinion with the rest of the judges against the validity of Lord Russell's challenge of a juror for not having a freehold. His patent as baron was revoked on October 29, 1684, upon his being removed into the Court of Common Pleas, where on King Charles's death in the following February he was continued by King James. In the next year the great question was agitated in the Court of King's Bench in the case of Godden *v.* Sir Edward Hales, whether the king could legally dispense with the oaths of allegiance and supremacy required by the Test Act; the king claiming to do so by his royal prerogative, and having granted an office to the defendant, a Roman Catholic, with a patent of dispensation. Chief Justice Herbert, though decidedly in favour of the prerogative, thought proper to obtain the opinions of the twelve judges on the point, and afterwards stated that all of them concurred with him, except Judge Street.[1] Luttrell soon after this event (i. 382) says "There is a discourse as if Judge Street were turned out, and that Mr. Serjeant Wild is ordered to go the circuit."

As the decision was of course most unpopular in the country, the dissenting judge was looked up to at the time with great admiration, and his courage and honesty were lauded by writers for more than a century afterwards. But within the last few years it has been the fashion to assume that this dissent from his brethren was given collusively, and prompted by the court, with the view of inducing the public to believe that the judgment of the bench was entirely independent, and not influenced in any degree by royal dictation. This suggestion is founded on the facts that Street was the only judge not dismissed by James, and that he was not re-appointed at the Revolution; with a passage in Lord

[1] Patents; T. Raymond, 431; State Trials, viii. 547, ix. 536, 593, xi. 1198.

Clarendon's diary (ii. 236) explaining the reason why his lordship did not present him to King William to be, that Lord Coote, in reporting to his majesty the judge's "true character," had described him as "a very ill man." No particulars are stated upon which Lord Coote founded this condemnation, and it is remarkable that he gives the judge credit for "not joining in the judgment for the dispensing power," without hinting a doubt of its sincerity. It seems more than probable that his lordship's prejudice arose from some family quarrel, he himself adding that the judge had married one of his relations. Lord Clarendon on the contrary declares that he "had long known the judge and that he took him to be a very honest man;" and no other recorded incident of his life seems to justify a different conclusion. It is curious that the writers who impute collusion are all Whigs. Sir James Mackintosh first "suggests the painful suspicion;" Lord Macaulay reiterates it more emphatically; and Lord Campbell, without a scintilla of additional evidence, asserts it as a positive fact: each of them forgetting that in the total change of the judges at the Revolution it was not likely that one should be excepted, who was a Tory in principle, and notoriously a friend to the excluded family. Without supposing therefore that Sir Thomas Street was better than James's other judges, there seems no probability, and certainly there is no proof, of his being guilty of the baseness which these authors have attributed to him. From the absence of the slightest hint of such an imputation when the judges were questioned on the subject by the Parliament of 1689, a strong inference may be drawn that it has no foundation.

At the Revolution he retired to his native city where he died on March 8, 1696, and was buried in the cloisters of its cathedral. It is some evidence that collusion in giving his opinion against the dispensing power was not suspected by

his family, or his neighbours, or his contemporaries, that on the handsome monument erected to his memory the fact is prominently and encomiastically recorded.

It was not till just after his dissent from the other judges that he married Penelope one of the daughters and coheiresses of Sir Rowland Berkeley of Cotheridge in Worcestershire, his colleague in the parliament of 1661. By this lady, who it seems was a relation of Lord Coote, he left an only daughter; but the name still survives in descendants of the judge's brother.[1]

STRINGER, THOMAS.

Just.' K. B 1688.

By the admission of Thomas Stringer to the society of Gray's Inn in May 1645 it appears that his father, then deceased, was of the parish of St. Sepulchre in London. Educated at Peterhouse, Cambridge, where he took his two degrees in arts, he was called to the bar in July 1652, and became an ancient of his inn in May 1667. To what family of Stringer he belonged is uncertain[2], but probably to that settled at Sharleston in Yorkshire, as he was returned member for the not far distant borough of Clitheroe in part of the second parliament of Charles II., and in those of March and October 1679, and of 1681; in none of which did he take any prominent part. The date or occasion of his knighthood has not been ascertained, but he is described with the title when summoned to take the degree of the coif in July 1677. In 1679 he was promoted to be one of the king's

[1] Nash's Worcestersh. introd. xxx.; Chambers' Biog. Illust. of Worcester, 216; Granger, iv. 314; Green's Hist. of Worcester, i. 160; Luttrell, i. 386.

[2] There was at this time another Thomas Stringer a lawyer, who was chief secretary of Lord Chancellor Shaftesbury, of whose life he left a MS. account. He was of Ivy Church near Salisbury, and acted for several years as chairman of the Wiltshire Quarter Sessions. He died in 1702, and was buried in Alderbury Church.

serjeants; and he was employed in the prosecution of the presumed murderers of Sir Edmondbury Godfrey and the trials connected with the pretended plot. Nothing more is heard of him till April 1687, when he was discharged from being king's serjeant. In the following October his eldest son married the daughter of Lord Chancellor Jeffreys, which no doubt was one of the causes which led to Sir Thomas's promotion in October 1688 to be a judge of the King's Bench in the place of Sir Richard Allibone; a position which he did not enjoy for many months as he was not reappointed by King William. He possessed the manor of Durance in Enfield, and died in September 1689, within a year after his dismissal.[1]

TREVOR, JOHN.

M. R. 1685.

See under the reigns of William III., Anne, and George I.

WALCOT, THOMAS.

JUST. K. B. 1685.

See under the Reign of Charles II.

THE pedigree of the Walcots extends back through several centuries, commencing with Llewelyn with the Golden Chain, lord of Yale in Denbighland; one of whose descendants married the heir of Sir John Walcot of Walcot in Shropshire, and thereupon assumed the name with the extensive estates. After a succession of honourable possessors they were inherited by Humphrey Walcot, who was sheriff of the county in 1631, and suffered considerably by his adherence to the royal cause. By his marriage with Anne, daughter of Thomas Dockwra, of Poderich in Hertfordshire, he had several children, of whom Thomas the future judge was the second surviving son.

[1] State Trials, vii. 162, 261, viii. 504; Luttrell, i. 402, 417, 470, 587.

Thomas Walcot was born in 1629, and being admitted to the Middle Temple on November 12, 1647, was called to the bar on November 25, 1653, became a bencher in 1671, and Lent reader in 1677. Of his early legal career nothing is recorded, so that it is probable that his principal practice was confined to the provinces. He was elected recorder of Bewdley in 1671, and in 1679 was summoned to take the degree of the coif; after which his name appears in the reports of T. Raymond and B. Shower. In the parliament summoned in October 1679, but not allowed to meet till October 1680, and dissolved in January 1681, he was elected member for Ludlow; but he is not mentioned as taking any part in the debates. He received the honour of knighthood on November 21, 1681; and on October 22, 1683 was constituted a judge of the King's Bench by Charles II., but retained his seat there for less than two years, dying in the Trinity vacation which followed King James's accession. When the sentence pronounced by that court in June 1684 against Sir Thomas Armstrong on his attainder by outlawry, was taken up by the parliament in January 1689, it appeared that Mr. Justice Walcot had died intestate and had not left an estate sufficient to pay his debts. In the only other public trials in which his name appears, those of Rosewell and Titus Oates, he made no remark indicative of either his character or his talents.

He married Mary, daughter of Sir Adam Littleton of Stoke Melbury in Shropshire, Bart., and by her had several children. He was seated at Bitterly Court in that county, which, by various intermarriages, has become the property of the senior branch of the family; the Walcot estate having been sold in 1764 to Lord Clive.[1]

[1] Pedigree of the Family; Nash's Worcester, ii. 279; Parl. Register (1741), 144; State Trials, x. 119, 151, 1198; 2 Shower, 434.

WRIGHT, ROBERT.

B. E. and JUST. K. B. 1685. CH. C. P. and CH. K. B. 1687.

See under the Reign of Charles II.

KILVERSTONE and its manors in the county of Norfolk became the property of the Wrights in the reign of Queen Elizabeth. Thomas the son of the purchaser had three sons, the youngest of whom, Jermyn Wright, settled at Wangford in Suffolk, and by his wife Anne, daughter of Richard Bachcroft of Bexwell, was the father of King James's chief justice. Robert Wright received his education first at the Free School of Thetford, and then at Peterhouse, Cambridge, where he took the degree of B.A. in 1658, and of M.A. in 1661. Previously to his admission to the Inner Temple he had been included in the list of those who were qualified to be made knights of the intended Order of the Royal Oak with an estate in Norfolk of the value of 1000*l.* a year.[1]

Roger North informs us in his life of Lord Keeper Guilford (p. 247) that Wright went the Norfolk circuit, and that by his marriage with Susan, one of the daughters of Bishop Wren, he was "set in credit in the country. . . Of a comely person, airy and flourishing in his habits and manner of living," he for some time commanded a greater share of business than his companion Mr. North, but "was so poor a lawyer that he could not give an opinion on a written case, but used to bring his cases to his friend Mr. North, who wrote the opinion on a paper, which Wright copied and signed as if it were his own." This practice he continued even when Mr. North was in London, and put off his clients upon pretence of taking more consideration. His deficiency could not be long concealed; and not getting much by the law, he "by favour was made treasurer of the

[1] Blomfield's Norfolk, i. 368; Wotton's Baronet. iv. 372.

chest at Chatham, and by his voluptuous unthinking course of life" became embarrassed to so considerable a degree that his friend North, from whom he had occasionally borrowed money, paid off his other debts and took a mortgage of his estate for 1500*l.* The author adds the disgraceful fact that some years afterwards he obtained of Sir Thomas Plummer 500*l.* more upon an original mortgage of the same estate, and made an affidavit that it was clear from all incumbrances.

In the mean time his name appears as representing King's Lynn on a vacancy during the second parliament of Charles II. In 1678 he was appointed counsel for the university, and in August 1679 was elected deputy recorder of the town of Cambridge. Having contracted a close friendship with Sir George Jeffreys he had been in the Easter preceding raised to the coif and knighted, and was further promoted to be king's serjeant on May 17, 1680. In the next year he succeeded Sir Thomas Street as chief justice of Glamorgan, and on Street's removal from the Exchequer to the Common Pleas he was appointed a baron of that court on October 30, 1684.[1] Roger North relates that Wright, being on the brink of ruin, applied to Jeffreys (then chief justice) to rescue him by getting him made a judge. On the king suggesting his name, Lord Keeper North answered that "he knew him but too well, and was satisfied that he was the most unfit man to be made a judge." It was, therefore, for some time delayed, but upon being again pressed the lord keeper detailed what he knew of him, that he was a dunce and no lawyer, of no truth or honesty, guilty of perjury, and not worth a groat, having spent all his estate in debauched living. Having thus done his duty the lord keeper left the decision to the king, who urged by Jeffreys at last gave way and sent his warrant for the appointment.

[1] Parl. Reg. (1741) 148; T. Raymond, 431; Dugdale's Chron. Ser.

He was elected recorder of Cambridge on the 10th of the following February, four days after the accession of James II., who not only renewed his patent as judge, but selected him to accompany his patron Jeffreys on the bloody western assize; and on October 11, immediately after his return therefrom, removed him to the King's Bench in the room of Sir Thomas Walcot, recently deceased. Eighteen months afterwards another death gained him further promotion, being appointed Sir Henry Bedingfield's successor as chief justice of the Common Pleas on April 16, 1687. This office he held only five days, during which the case of the deserter came before the court of King's Bench, when Chief Justice Herbert, having given an opinion adverse to the king's claim to exercise martial law in time of peace, was removed to the Common Pleas to make way for Sir Robert Wright as more willing to forward the king's designs. He was therefore appointed chief justice of the King's Bench on April 21; and the first proof of his servility was to grant the order for hanging the poor soldier, which his predecessor was dismissed for refusing. The next was in fining the Earl of Devonshire, who had always distinguished himself by his opposition to the Court, for an assault on Colonel Culpepper in the king's presence-chamber, in the exorbitant sum of 30,000*l.*, and committing him to prison till it was paid, the chief justice saying that the offence was "next door to pulling the king out of his throne." Next he was one of the ecclesiastical commissioners, and was sent down with Bishop Cartwright and Baron Jenner on the famous visitation of Magdalen College, Oxford, when the president and all the fellows except three papists were expelled.[1] From his being selected as a member of that commission, from his saying to one of the fellows, "Your Oxford law is no better than your Oxford divinity," and from King James granting him dispensation

[1] Athen. Oxon. iv. 505; State Trials, ix 1354, xii. 26.

from taking the oaths and subscribing the test, it would seem not improbable that he had been, or was willing to be, converted to the religion of the court. In the following June he presided at the trial of the seven bishops; when, though he so far accommodated himself to the king's anxiety to condemn them as to declare their petition to be a libel, he was at the same time so evidently awed by the general voice in their favour as to conduct the proceedings with great apparent decency and impartiality.[1]

Within six months from this time, when the king deserted the throne, the chief justice, conscious of his danger, retired to some place of concealment. The character he bore among his contemporaries may be judged from the following lines in a lampoon of the time:—

> Farewell Brent, farewell William,
> *Farewell Wright, worse than Tresilian*;
> Farewell chancellor, farewell mace,
> Farewell prince, farewell race.

His retreat was discovered on January 15, 1689, by Sir William Waller, who took him before Sir John Chapman the lord mayor, by whom he was committed to Newgate on a charge "that hee, being one of the judges of the court of King's Bench, hee had endeavoured the subversion of the established government by alloweing of a power to dispence with the laws; and that hee was one of the commissioners for ecclesiastical affairs."[2] He was brought before the House of Lords on May 6, in relation to the case of the Earl of Devonshire, when, though the committing of the earl was declared a manifest breach of privilege, and the fine of 30,000*l.* to be excessive and exorbitant, no further proceedings appear to have been taken against the judges. On the

[1] Bramston's Autob. 283; State Trials, xii. 42.

[2] Jesse's Court of England, iv. 419; Bramston, 346; Wotton's Baronet. iv. 196, dates the warrant Feb. 13.

18th of the same month Sir Robert died in Newgate of a fever, and thus escaped being excepted from the Act of Indemnity. In the debate on June 18, it was resolved that he should be excepted though dead; but in the Act itself, which was not passed till May 1690, his name was omitted, though that of Lord Chancellor Jeffreys, also deceased, was retained.[1]

He was thrice married. His first wife was Dorothy Moor, of Wiggenhall St. Germans, who died in 1662; his second was Susan, daughter of Matthew Wren, Bishop of Ely; and his third was Elizabeth, daughter of Chief Justice Scroggs; by the two latter of whom he had several children.

WYTHENS, FRANCIS.

JUST. K. B. 1685.

See under the Reign of Charles II.

THE family of this judge was originally settled in Cheshire, but migrating to the south one of them, Robert Wythens, became an alderman of London. His eldest son, Sir William, was sheriff of Kent in 1610, in which county he had a considerable estate. He died in 1630, and his residence at Southend in the parish of Eltham was in the possession of Judge Wythens at the time of his death in 1704, but whether he inherited it as the son, or grandson, or nephew of Sir William is uncertain.[2]

The earliest notice that we have of Francis Wythens is as high steward of the Franchise Court of Westminster, and as a successful candidate for that city in the parliament summoned to meet in October 1679, but the opening of which was deferred by seven prorogations to October in the following year, when his return was disputed by Sir William Waller and Sir William Pulteney. In the interval numerous

[1] State Trials, ix. 1367; Parl. Hist. v. 339; Stat. of Realm, vi. 178.

[2] Hasted's Kent, i. 204, 478.

petitions having been presented to the king praying for the meeting of parliament, which were met by counter-addresses expressing abhorrence of the practices of the petitioners as interfering with the king's prerogative, Wythens took an active part in getting up the latter, and on presenting one from the grand inquest of the city of Westminster he received the honour of knighthood on April 18, 1680. As soon as the parliament met in October, Sir Francis, as a member, was the first who was charged with the fact as an offence against the rights of the people; and upon evidence taken and his own confession he was ordered to be expelled the House, and to receive his sentence on his knees at the bar. The speaker accordingly addressed him in these terms, "You, being a lawyer, have offended against your own profession; you have offended against yourself, your own right, your own liberty, as an Englishman. This is not only a crime against the living, but a crime against those unborn. You are dismembered from this body." This castigation must have been doubly painful to the recipient, inasmuch as only a few days after the committee on the petition against his return reported that he was not duly elected. Roger North, in his relation of Sir Francis's expulsion, thus describes him:—"He was of moderate capacity in the law, but a voluptuary; and such are commonly very timid, and, in great difficulties, abject; otherwise he was a very gentile person, what was called a very honest man and no debtor to the bottle. Some cunning persons that had found out his foible and ignorance of trap, first put him in a great fright, telling him he would certainly be hanged as the ringleader of all this business, and then they fetched him off with advice which was the best way for him to escape. He must by no means justify what he had done, no, that would but irritate; and the house would make their examples of those who disputed upon the right, which they were resolved to

vindicate to the last degree. . . . Now there were many gallant gentlemen in the house of great estates and interests in their counties, who were friends to these abhorrers, and would have done this gentleman all the service they could, if he had not lost himself by his behaviour: that is if he had stood manfully to what he had done, and declared that he knew no law he had broken, and would justify himself. But instead of this, or anything like it, he stood up in his place, and, after a few whimpers and a wipe, he said to this effect, viz. 'That he did promote and carry up that abhorrence, but he knew at the time he was in the wrong, only he thought it would please the king;' and so owning the thing was against law, begged pardon. This sneaking come-off so disgusted even his friends, that they joined all with the country party, and with one consent, *nemine contradicente*, kicked him out of the house, as one not fit for gentlemen's company."[1]

Soon after his election for Westminster he was engaged as counsel to defend Thomas Knox on an indictment against him and John Lane for a conspiracy to defame the notorious witnesses to the popish plot, Titus Oates and William Bedlowe; when, though his client was not acquitted, he was let off with a more merciful judgment than Chief Justice Scroggs was accustomed to pronounce. Sir Francis also assisted in the prosecution of Henry Carr for a libel in publishing "The Weekly Packet of Advice from Rome," exposing some of the tricks of popery. The chief justice was called to account by the parliament for his conduct on both of these trials, and was removed from his office. Under his successor, Sir Francis was employed by the crown in the cases of Edward Fitzharris, the Earl of Shaftesbury, and Count Coningsmark[2]; and on all these occasions he acted the part, if not of an able,

[1] Luttrell's Diary, i. 41; Commons' Journal; North's Examen. 549.

[2] State Trials, vii. 801, 1125, viii. 269, 1125, ix. 15.

of an intelligent advocate. His name also appears in T. Jones's and in Shower's Reports; so that Burnet is hardly justified in saying that his presenting the address of abhorrence and consequent expulsion from the House of Commons was the only merit that caused his elevation to the bench. That elevation did not take place till nearly three years after the event to which the prejudiced historian attributes it, and was no doubt suggested as well by his average ability as a lawyer as by his known loyalty to the king.

Mr. Justice Dolben was superseded on April 20, 1683, pending the argument as to the charter of the city of London; because, says Burnet, he was found not clear in the king's favour. Three days after, Sir Francis Wythens, having been called sergeant for the purpose, was made a judge of the King's Bench in his place, and concurred in the following term in the judgment against the city. He was in the commission for the trial of the persons implicated in the Rye-house Plot, but took no prominent part in them. In the other prosecutions during the life of King Charles in which he acted as one of the judges, though there is nothing harsh or violent in his observations or his language towards the parties on their trials, he was evidently, as Roger North describes him, so weak and timid a man, that he had not the courage to differ from his more resolute chiefs. Consequently he assented to all the iniquitous judgments that disgraced that period, and incurred a larger share of odium than the other judges, from his being, according to the form of the court, the mouthpiece which pronounced most of the sentences. Evelyn (iii. 104) is indignant that Sir Francis was at a city-wedding on December 5, 1683, when he and Chief Justice Jeffreys danced with the bride and were exceeding merry, spending "the rest of the afternoon till eleven at night in drinking healths, taking tobacco, and talking beneath the gravity of judges who had a day or two before condemned

Mr. Algernon Sidney." But instead of "a day or two," the trial had taken place a fortnight before this time; and it is most probable that Evelyn's disgust at the verdict influenced his opinion as to the private conduct of the judges. Without approving the prevalent levity of the time, we must think it rather hard upon judges to expect that they should assume a solemn aspect because they had presided at a capital conviction a fortnight before.

On Charles's death in February 1685, Sir Francis received a new patent; and in the following November was elected recorder of Kingston-on-Thames. He accompanied Chief Justice Jeffreys in his bloody campaign after the Duke of Monmouth's rebellion; and continued for two years to exercise his judicial functions with his accustomed pliancy, till a sudden boldness, or a prophetic policy, prompted him to unite with Chief Justice Herbert in denying that the king could exercise martial law in time of peace without an act of parliament. The consequence was his immediate discharge from his office on April 21, 1687, the punishment usually inflicted by King James on the slightest non-compliance with his will. Shower reports (ii. 498) that on the next day he came to Westminster Hall and practised as a serjeant; which seems to evidence his reliance on the popularity of his decision.

As this sole instance of his insubordination was too great to be overlooked by James, so it was too little to plead in his favour in the next reign; for he was one of the thirty-one persons who were excepted out of the Act of Indemnity. Before this bill was passed there had been various debates in the House of Commons[1] relating to trials in which Judge Wythens had been concerned as one of the judges, and many of the judgments and decisions had been declared arbitrary and illegal; but the principal matter urged against him was his concurrence in the opinion in favour of the king's dis-

[1] Stat. of Realm, vi. 178; Parl. Hist. v. 338.

pensing power. Beyond the insertion of his name in the act it does not appear that he was visited with any penalty, except removal from the recordership of Kingston. He survived his discharge till 1704, when he died at his family seat at Eltham, and was buried in the church there on May 12.

Sir Francis married Elizabeth sister of Sir Thomas Taylor of Parkhouse, Bart., and left an only daughter named Catherine, who was married first to Sir Thomas Twysden of East Peckham, Bart., and secondly to Brigadier-General George Jocelyn, a younger son of Sir Robert Jocelyn, Bart. If the account given by Mrs. Manley in the "New Atalantis" is to be credited, Lady Wythens, though clever and witty, brought no comfort to her husband, and acquired for herself a very bad reputation. That she involved him in expenses for the purpose of putting him in prison, appears from an action brought against him in 1693 for extravagant outlay in dresses, &c., which he was obliged to pay. After his death she married Sir Thomas Colepeper of Aylesford, Bart.[1]

[1] Wotton's Baronet. i. 218; New Atalantis, ii. 257; Skinner, 348.

WILLIAM III. AND MARY.

Reigned together, 5 years, 10 months, and 15 days; from February 13, 1689, to December 28, 1694: and

WILLIAM III.

Reigned alone, 7 years, 2 months, and 9 days; from December 28, 1694, to March 8, 1702.

In all this reign lasted 13 years and 24 days.

SURVEY OF THE REIGN.

FOR the two months that intervened between December 11, 1688, the date of King James's flight, and February 13, 1689, when William and Mary were proclaimed, England was without a regular government. The business of the courts was entirely suspended; James's chancellor in the Tower, and his chief justice in Newgate, were awaiting the doom they deserved, which they only escaped by dying before it was pronounced; and the rest of the judges were trembling in expectation of the retribution they could not but anticipate. The impunity with which they were treated was justified by their general insignificance: some of them returned to their practice at the bar; but the only man of character among them, Sir Edward Herbert, disdaining to desert his unfortunate master, generously joined him in exile.

The seat of justice being thus left vacant, there was no possibility of carrying on the business of the courts till the new government was established. The consequence was that Hilary Term, 1689, was not held, and an utter stop was

put to legal proceedings. To remedy the inconvenience this occasioned, one of the first acts of the Convention Parliament was to continue all actions previously depending, and to supply the defects in the various processes. This act was passed on April 3, 1689; but the king had in some degree met the legal difficulties by appointing a judge in each of the courts at a somewhat earlier period. The business of the Chancery was supplied by entrusting the Great Seal to three commissioners on March 4, and by appointing Sir Henry Powle master of the rolls on March 13. In the Common Law courts three judges were placed on March 11; Sir William Dolben in the King's Bench, Sir John Powell, senior, in the Common Pleas, and Sir Edward Nevil in the Exchequer. After the act was passed, these, with two of the chiefs who had been subsequently named, opened Easter Term on April 17, and the whole Bench was finally filled on May 8.

It is one of the glories of the Revolution that it forms a new era in our judicial history. Great was the immediate change in the administration of justice. The bench was no longer disgraced by coarse and savage brutality or by servile and courtly obsequiousness: the principles of law were more strictly defined, and its practice more decently conducted: there were no longer any violent dismissals or convenient political resignations; and the judges succeeded each other in quiet independence, scarcely ever leaving the seats they occupied till incapacitated by infirmity or removed by death. From the beginning of this reign the old words "Durante bene placito" were excluded from their patents; and by the statute 12 & 13 William III. c. 2, s. 3, it was finally settled that their commissions should always be made "Quamdiu se bene gesserint;" that their salaries should be ascertained and established; and that only upon the address of both houses of parliament it should be lawful to remove them.

Another great improvement effected in this reign was the passing of the statute 7 Will. III. c. 3, for regulating trials in cases of treason: by which, besides other advantages given to the accused parties, they were allowed to make their defence by counsel. Upon what principle this had ever been refused it is not easy to understand; the consequent difficulty that they suffered cannot be better illustrated than by a speech made by Lord Ashley, the author of the "Characteristics," while the bill was in the House of Commons. When he stood up to advocate the clause granting counsel to prisoners, abashed by the great audience he entirely lost his memory and was unable to proceed. On the members encouraging him, he addressed the speaker in these words: "If I, sir, who rise only to give my opinion on the bill now depending, am so confounded that I am unable to express the least of what I proposed to say, what must the condition of that man be, who without any assistance is pleading for his life, and under apprehensions of being deprived of it."[1]

LORD CHANCELLOR, KEEPERS, AND COMMISSIONERS OF THE GREAT SEAL.

SIR JOHN MAYNARD, one of the late king's serjeants,
SIR ANTHONY KECK, a barrister, and
SIR WILLIAM RAWLINSON, serjeant-at-law, were appointed commissioners of the Great Seal on March 4, 1689; but in little more than a year, Sir John Maynard and Sir Anthony Keck retiring, a new commission was granted to

SIR JOHN TREVOR, James's master of the rolls,
SIR WILLIAM RAWLINSON, and
SIR GEORGE HUTCHINS, king's serjeant, on May 14, 1690. After remaining in office nearly three years, the Seal was transferred to

SIR JOHN SOMERS, the attorney-general, as lord keeper,

[1] Parl. Hist. v. 966.

on March 23, 1693. The title of lord chancellor was given to him on April 22, 1697, and in December of the same year he was created Baron Somers of Evesham. For seven years he held the Seal, which on his dismissal was placed in the hands of

Sir John Holt, chief justice of the King's Bench,

Sir George Treby, chief justice of the Common Pleas, and

Sir Edward Ward, chief baron of the Exchequer, from May 5 to 21, 1700, when

Sir Nathan Wright, king's serjeant, was constituted lord keeper, and was still in possession of the office at the death of King William on March 8, 1702.

As soon as the Prince and Princess of Orange had accepted the government, a new Great Seal was made. The inscription round it was "Willielmus III. et Maria II., Rex et Regina Angliæ Franciæ et Hiberniæ, fidei defensores," &c., and they were represented on the obverse sitting with an altar between them, on which was the globe of sovereignty, with a hand of each placed upon it. On the reverse were the equestrian figures of the king and queen, with a representation of London in the background. On the queen's death in December 1694, a new Seal was substituted, on which the figure of King William was represented alone.[1]

The powers of the commissioners of the Great Seal were declared by stat. 1 W. and M. c. 21 to be the same as those of the lord chancellor or lord keeper; common orders might be made by one, but for a decree, or affixing the Seal to anything, two commissioners were obliged to be present. Their place was next after the peers and the speaker of the House of Commons.

On the appointment of a lord chancellor or lord keeper a sum of 2000*l.* (reduced by fees and charges to 1843*l.* 13*s.*)

[1] Luttrell's Diary, i. 502; Miss Strickland's Queens, xi. 315.

was allowed for outfits or equipage, though not so expressed in the warrant, which states it to be of his majesty's free gift and royal bounty. The earliest existing record of this allowance is dated June 4, 1700, when Sir Nathan Wright was made lord keeper, which states it to be the same sum as had been allowed to his predecessor. The same allowance is continued to the present day.

Sir John Somers, soon after he was made lord keeper, removed from the Temple to Powis House, Lincoln's Inn Fields; and in the minute-books of the Treasury there is an entry dated September 11, 1696, directing a Privy Seal to discharge the process for the appraised value of this house, and to declare the king's pleasure that the lord keeper or the chancellor for the time being should have and enjoy it for the accommodation of their offices. Though Somer's successors, Lord Keeper Sir Nathan Wright and Lord Chancellors Cowper and Harcourt, inhabited it, the royal intention was soon set aside; for in 1711 it was sold to John Holles, Duke of Newcastle, who gave it the name of Newcastle House, which it still retains.[1]

MASTERS OF THE ROLLS.

SIR HENRY POWLE, the speaker of the Convention Parliament, was appointed master of the rolls on March 13, 1689. His patent was at first "Durante bene placito," but a new one was substituted on June 14, with the words, "Quamdiu se bene gesserit." He died in November 1692, and

SIR JOHN TREVOR, who had held the office under James II., was re-instated in it on January 13, 1693; the grant being "for life." He continued in it during the rest of the reign.

[1] Luttrell, iii. 252, iv. 649, vi. 645; 7 Report Pub. Rec. App. ii. 82.

Masters in Chancery.

Sir Henry Powle, M.R.	1 to 4	Will. III.
Sir Lacon W. Child	1 to 14	—
Miles Cooke	1 to 11	—
John Franklyn	1 to 14	—
John Hoskins	1 to 14	—
Adam Oatley	1 to 5	—
Robert Legard	1 to 14	—
James Astry	1 to 5	—
John Edisbury	1 to 14	—
John Methwen	1 to 14	—
Roger Meredith	1 to 12	—
Samuel Keck	1 to 14	—
Sir John Trevor, M.R.	4 to 14	—
Thomas Pitt	5 to 14	—
Richard Holford	5 to 14	—
Sir Henry Newton	11 to 13	—
Thomas Gery	12 to 14	—
William Rogers	13 to 14	—

Chief Justice of the King's Bench.

Sir John Holt, king's serjeant in the last reign, on the settlement of the courts, was immediately made chief justice of the King's Bench. His patent was dated April 17, 1689; and he presided during the whole of the reign.

Justices of the King's Bench.

I. 1689. March 11. William Dolben } in the room of { Thomas Powell.
May 4. William Gregory } { Robert Baldock.
Giles Eyre } { Thomas Stringer.

VI. 1694. Feb. 22. Samuel Eyre, vice W. Dolben.

VII. 1695. Oct. 29. Thomas Rokeby, vice G. Eyre.

VIII. 1696. July 1. John Turton, vice W. Gregory.

XI. 1699. Jan. 26. Henry Gould, vice S. Eyre.

XIII. 1701. Jan. 26. Littleton Powys, vice T. Rokeby.

The judges at the end of the reign were
Sir John Holt, chief justice,
Sir John Turton, Sir Littleton Powys,
Sir Henry Gould.

CHIEF JUSTICES OF THE COMMON PLEAS.

SIR HENRY POLLEXFEN, attorney-general, was appointed chief justice on May 4, 1689; and dying on June 15, 1691, was succeeded, after a vacancy of nearly a year, by

SIR GEORGE TREBY, attorney-general, on May 3, 1692. He died on December 13, 1700, and another vacancy occurred of six months, when it was supplied by

SIR THOMAS TREVOR, attorney-general, on June 28, 1701, for the remainder of the reign.

JUSTICES OF THE COMMON PLEAS.

I. 1689. March 11. May 4. John Powell, Thomas Rokeby, Peyton Ventris } in the room of { Thomas Street. Thomas Jenner. Edward Lutwyche.

III. 1691. Oct. Edward Nevil, vice P. Ventris.

VII. 1695. Oct. 29. John Powell, jun., vice T. Rokeby.

IX. 1697. Nov. 23. John Blencowe, vice J. Powell, sen.

At King William's death, the judges were
Sir Thomas Trevor, chief justice,
Sir Edward Nevil, Sir John Powell, jun.
Sir John Blencowe.

CHIEF BARONS OF THE EXCHEQUER.

SIR ROBERT ATKYNS, who had been removed from his seat in the Common Pleas in the reign of Charles II., was nominated chief baron on April 17, 1689. He resigned the place on October 22, 1694; which remained vacant for more than seven months, when

SIR EDWARD WARD, attorney-general, on June 8, 1695, was appointed to fill it, which he did till the king's death.

BARONS OF THE EXCHEQUER.

I. 1689. March 11. May 4. Edward Nevil, Nicholas Lechmere, John Turton } in the room of { Richard Heath. Charles Ingleby. John Rotheram.

William Carr, the cursitor baron, was not removed.

July 9. George Bradbury, cursitor baron, vice W. Carr.

III. 1691. Oct. 27. John Powell, jun., vice E. Nevil.
VII. 1695. Oct. 29. Littleton Powys, vice J. Powell, jun.
VIII. 1696. March 16. Richard Wallop, curs. baron, vice G. Bradbury.
Sept. 18. John Blencowe, vice J. Turton.
IX. 1697. Oct. 2. William Simpson, curs. baron, vice R. Wallop.
Nov. 23. Henry Hatsel, vice J. Blencowe.
XII. 1700. Nov. 14. Robert Tracy, vice N. Lechmere.
XIII. 1701. Jan. 26. Thomas Bury, vice L. Powys.

The barons of the Exchequer at the end of the reign, were

Sir Edward Ward, chief baron,

Sir Henry Hatsel — Robert Tracy, Esq.
Sir Thomas Bury — Sir William Simpson, curs. baron.

COURT OF CHANCERY.

A.R.	A.D.	LORD CHANCELLOR AND KEEPERS.	MASTERS OF THE ROLLS.
1	1689. March 4	Sir John Maynard, Sir Anthony Keck, Sir William Rawlinson — *Commissioners.*	
	March 13	—	Sir Henry Powle.
2	1690. May 14	Sir John Trevor, Sir William Rawlinson, Sir George Hutchins — *Commissioners.*	—
4	1693. Jan. 13	—	Sir John Trevor.
5	March 23	Sir John Somers, *Keeper.*	—
9	1697. April 22	*Chancellor.*	—
	Dec. 2	*cr.* Lord Somers	—
12	1700. May 5	Chief Justice Holt, Chief Justice Treby, Chief Baron Ward, Sir John Trevor, M.R. — *Commissioners.*	—
	May 21	Sir Nathan Wright, *Keeper.*	—

COURT OF KING'S BENCH.

A.R.	A.D.	CHIEF JUSTICES.	JUDGES OF THE KING'S BENCH.		
1	1689. March 11	John Holt	William Dolben		
	April 17		—		
	May 4		—	William Gregory	Giles Eyre.
6	1694. Feb. 22	—	Samuel Eyre	—	—
7	1695. Oct. 29	—	—	—	Thomas Rokeby.
8	1696. July 1	—	—	John Turton	—
9	1699. Jan. 26	—	Henry Gould	—	—
13	1701. Jan. 28	—	—	—	Littleton Powys.

COURT OF COMMON PLEAS.

A.R	A.D.	CHIEF JUSTICES.	JUDGES OF THE COMMON PLEAS.		
1	1689. March 11		John Powell		
	May 4	Henry Pollexfen	—	Thomas Rokeby	Peyton Ventris.
3	1691. June 15	died	—	—	died April.
	Oct.		—	—	Edward Nevil.
4	1692. May 3	George Treby	—	—	—
7	1695. Oct. 29	—	—	John Powell, jun.	—
9	1697. Nov. 23	—	John Blencowe	—	—
12	1700. Dec. 13	died	—	—	—
13	1701. June 28	Thomas Trevor	—	—	—

COURT OF EXCHEQUER.

A.R.	A D.	CHIEF BARONS.	BARONS OF THE EXCHEQUER.		
1	1689. March 11		Edward Nevil		
	April 17	Edward Atkyns	—		
	May 4	—	—	NicholasLechmere	John Turton.
3	1691. Oct. 27	—	John Powell, jun.	—	—
6	1694. Oct. 22	resigned	—	—	—
7	1695. June 8	Edward Ward	—	—	—
	Oct. 29	—	Littleton Powys	—	—
8	1696. Sept. 18	—	—	—	John Blencowe.
9	1697. Nov. 23	—	—	—	Henry Hatsel.
12	1700 Nov. 14	—	—	Robert Tracy	—
13	1701. Jan. 28	—	Thomas Bury	—	—

The following were the Cursitor Barons:—
1. William Carr, till July 9, 1689. 2. George Bradbury, till February 12, 1696. 3. Richard Wallop, till August 22, 1697; and lastly, William Simpson.

From Luttrell's "Diary" we learn that the judges still attended at Whitehall to receive instructions from the lord president how to behave during their circuits; and that a man convicted of manslaughter, on pleading his pardon presented the judges with gloves.[1]

The salary of the puisne judges was 1000*l.* a year; but they were entitled to sundry fees and perquisites, which greatly increased their profits; besides customary presents. The Stationers' Company annually supplied them with almanacks, and to the judges of the Common Pleas the warden of the Fleet sent two, and each of the prothonotaries three, sugar loaves, at the commencement of January. These presents are duly recorded by Judge Rokeby in a "Goldsmith's Almanack" of 1694; in which he kept also an account of

[1] Luttrell's Diary, ii. 261, 492, iv. 532.

his casual profits for each term in that year, amounting together to 694*l.* 4*s.* 6*d.* These consisted of dedimus money from the cursitors, of judgment money, of fees from the clerk of the warrants, from the enrolment office, and from the king's silver, and for chamber uses.

The same precise judge thus records the annual profits of his office:—

	£	s.	d.		£	s.	d.
In 1689 . . .	1378	19	0	In 1694 . . .	1629	4	6
„ 1690 . . .	1475	10	10	„ 1695 . . .	1443	7	6
„ 1691 . . .	2063	18	4	„ 1696 . . .	1478	2	6
„ 1692 . . .	1570	1	4	„ 1697 . . .	1498	11	11
„ 1693 . . .	1569	13	1	„ 1698 . . .	1631	10	11

In 1695 he was removed from the Common Pleas to the King's Bench; by which, it appears, his income was slightly diminished. He also records "The charges of my coming into my judge's place, and the taxes upon it the 1st year and halfe."

"1689, May 11. To Mr. Milton, deputy clerk of the crown, as per note for the patent and swearing privately, 21*l.* 6*s.* 4*d.* May 30. To Mr. English, charges of the patent at the Secretary of State's office, as per note, said to be a new fee, 6*l.* 10*s.* Inrolling the patent in Exchequer and Treasury, 2*l.* 3*s.* 4*d.* Ju. 27. Wine given as a judge, as per vintner's note, 23*l.* 19*s.* Ju. 24. Cakes given, as a judge, as per confectioner's note, 5*l.* 14*s.* 6*d.* Second-hand judge's robes, with some new lining, 31*l.* Charges for my part of the patent for our salarys, to Aaron Smith, 7*l.* 15*s.*, and the dormant warrant, 3*l.*—10*l.* 15*s.*——101*l.* 8*s.* 2*d.*

"Taxes, 420*l.*

"The charges of my being made a serjeant att law, and of removing my selfe and family to London, and a new coach and paire of horses, and of my knighthood (all which were within the first halfe year of my coming from York), upon the best calculation I can make of them were att least 600*l.*"

He gives this account of the expenses attendant on his removal in 1695 from the Common Pleas to the King's Bench:—

"Nov. 1. To Mr. Partridge the crier of the King's Bench, claimed by him as a fee due to the 2 criers, 2*l.* Nov. 12. To Mr. Ralph Hall in full of the clerk of the crown's bill for my patent, and swearing at the lord keeper's, and passing it through the offices, 28*l.* 14*s.* 2*d.* Dec. 6. To Mr. Carpenter, the vintner, for wine and bottles, 22*l.* 10*s.* 6*d.* To Mr. Gwin, the confectioner, for cakes, 5*l.* 3*s.* 6*d.* To Mr. Maud (his clerk), which he paid att the treasury and att the pell for my patent, allowed there 1*l.* 15*s.* Tot. 60*l.* 2*s.* 8*d.*"

It was the custom for a new judge to send to his colleagues cakes and wine, i. e. "a paper of biskets and mackroon, and two bottles of sack and a bottle of claret."[1]

On the removal of Mr. Baron Nevil in September 1691 from the Exchequer into the Common Pleas, it was decided by all the judges that he being the senior judge should not only retain his general precedency, but take the senior judge's place in court; so that judges Powell and Rokeby were removed from their cushions, and became the third and fourth judges in the court, though they had been from the time of their appointment second and third.

ATTORNEY-GENERALS.

I. 1689.	Feb.	Sir Henry Pollexfen, made Ch. C. P.
	May 4.	Sir George Treby, made Ch. C. P.
IV. 1692.	May 3.	Sir John Somers, made lord keeper.
V. 1693.	March 30.	Sir Edward Ward, made Ch. B. E.
VII. 1695.	June 8	Sir Thomas Trevor, made Ch. C. P.
XIII. 1701.	June 28.	Sir Edward Northey.

[1] Mem. of Judge Rokeby, 38, 49, 56; In Surtees Soc. Public. 1860.

Solicitor-Generals.

I. 1689.	Feb.	Sir George Treby, made attorney-general.
	May 4.	Sir John Somers, made attorney-general.
IV. 1692.	May 3.	Sir Thomas Trevor, made attorney-general.
VII. 1695.	June 8.	Sir John Hawles.

Serjeants at Law.

The added initial marks the Inn of Court to which they belonged; and those who became judges have a *.

I. 1689.
*Henry Pollexfen (I.)
*Thomas Rokeby (G.)
*Nicholas Lechmere (M.)
John Thurbane
William Wogan.
William Pawlet.
Nathaniel Bond.
*Giles Eyre (L.)
*Henry Hatsell (M.)
*John Blencowe (I.)
*Peyton Ventris (M.)
*John Powell (I.)
Roger Belwood.
John Tremayne.
John Trenchard.
*John Turton (G.)
Motto, "Veniendo restituit rem."

IV. 1692.
*George Treby (M.)
*Samuel Eyre (L.)
Francis Purly (I.)
William Coward (L.)
George Pricket (G.)
Thomas Gooding (G.)
*Henry Gould (M.)
Roger More (G.)
Reginald Bretland (G.)
John Darnall (M.)
Joseph Girdler (I.)
*Littleton Powys (L.)
*Nathan Wright (I.)
Charles Bonithon (G.)
Motto, "Lex domi, arma foris."

VII. 1695. *Edward Ward (I.)
Motto, "Arma nec silent leges."

XII. 1700.
*Joseph Jekyll (M.)
John Green (L.)
Charles Whitaker (I.)
Thomas Gibbons (I.)
*Thomas Bury (G.)
John Keen (L.)
Philip Neve (I.)
Richard Hooper (I.)
Henry Turner (L.)
*Robert Tracy (M.)
James Munday (I.)
John Hook (G.)
Lawrence Agar (G.)
*John Pratt (I.)
William Hall (M.)
James Selby (I.)
*John Smith (G.)
Thomas Carthew (I.)
Motto, "Imperium et libertas."

XIII. 1701. *Thomas Trevor (I.)
Motto, "Justitia regni decus."

KING'S SERJEANTS.

I. 1689.	*George Hutchins (G.)	William Wogan.
	John Tremayne.	William Thompson.
	Nathaniel Bond.	
V. 1693.	Ambrose Phillips.	George Hutchins (G.)
	John Trenchard	reappointed.
	*Henry Gould (M.)	
VII. 1695.	*Salathiel Lovel (G.)	
VIII. 1697.	*Nathan Wright (I.)	
X. 1698.	John Darnall (M.)	
XII. 1700.	Charles Whitaker (I.)	*Joseph Jekyll (M.)

King William called no less than fifty barristers to the degree of the coif, in addition to the surviving serjeants of the two previous reigns. Besides those who necessarily assumed the grade as an introduction to the Bench there were three great calls; the feasts of which were given in the hall of Serjeants' Inn, Fleet Street.

KING'S COUNSEL.

The lists of king's counsel will from this time, for greater convenience, be arranged alphabetically.

William Aglionby.	Roger North.
Edward Clerk.	— Osborn.
John Conyers.	Nathaniel Powell.
William Cowper.	William Whitlock.
William Farrar.	William Williams.
John Hawles.	

In March 1696, Sir William Williams and Sir William Whitlock were turned out from being king's counsel.

It seems that ever since the death of Charles II. the barristers had continued to wear mourning gowns, for Chief Justice Holt in Michaelmas Term in 1697 made an order that they should appear next term "in their proper gowns and not in mourning ones," and that otherwise he will not hear them: and Luttrell (iv. 300) remarks that the change will cost them 15*l.* a man.

Sir Henry Chauncy, a serjeant made by King James II., in his "History of Hertfordshire" (p. 526), published in 1700, complains bitterly of the falling off of the respectability of the profession. After enlarging on the policy of training the nobility and gentry by law and experience to dispense justice, he says, "But now these mechanicks, ambitious of rule and government, often educate their sons in these seminaries of law, whereby they overstock the profession and so make it contemptible, whilst the gentry not sensible of the mischief they draw upon themselves, but also on the nation, prefer them in their business before their own children, whom they bereave of their employment formerly designed for their support; qualifying their servants by the profit of this profession to purchase their estates, and by this means make them their lords and masters, whilst they lessen the trade of the kingdom and cause a scarcity of husbandmen, workmen, artificers, and servants in the nation." This tirade seems to be the querulous outpouring of an old lawyer, disappointed in practice. The learned complainer might have remembered many names during the previous centuries, which had been the boast of Westminster Hall, but which could not claim descent from the nobility, or even from those whom he would call gentry. To go back no farther than the reign of Henry VIII., where would Cardinal Wolsey, Sir John and Sir Thomas More, or Thomas Cromwell, have been, had this system of exclusion prevailed? and in subsequent reigns the bench, by the adoption of such a principle, must have been deprived of the services of Wray, Rastall, Banks, T. Raymond, W. Wilde, Christopher Milton, and many others, and even of Sir Matthew Hale and Lord Somers. In the increase of population, in the advance of civilisation, and still more in the accumulation and diffusion of riches, to circumscribe any profession, whether of law, or of physic, or of divinity, within the limits of a class, would have been

as absurd to attempt, as it would have been impossible to effect.

The following are some of the assessments made under stat. 4 W. & M. c. 1, granting an aid of 4*s.* in the pound; the first land tax act under which any returns have been found:

	£	*s.*	*d.*
Serjeants' Inn—			
Fleet Street .	65	4	0
Chancery Lane .	31	4	0
Middle Temple .	100	0	0
New Inn . . .	73	16	0
Lincoln's Inn . .	252	7	6
Thavies Inn . .	20	0	0
Furnival's Inn . .	69	0	0
Barnard's Inn . .	32	12	0
Staple Inn . . .	93	14	0

INNER TEMPLE.—The benchers having given orders in July 1691 for bricking up their little gate leading into Whitefriars, and their workmen being at work thereon, the Alsatians came and pulled it down as they built it up. On the sheriffs attending with their officers they were attacked and knocked down, and many shots were fired, killing two and wounding several. After some hours the Alsatians were reduced, and divers of them sent to prison. So great was the scandal and annoyance occasioned by this den of outlaws, and a similar one in the Savoy, that a few years afterwards an act for abolishing their pretended franchises was passed; and both these nests of ruffians were for ever destroyed. Evelyn mentions that "a riotous and revelling Christmas was to be kept according to custom" in 1697.[1]

MIDDLE TEMPLE.—King William, on his accession, was entertained at a banquet in the hall, followed by a masque, the whole being under the management of Beau Nash then a young student there. His majesty was so much gratified with the performance that he offered to make a knight of Nash, who respectfully refused the honour, saying with characteristic boldness, "Please your majesty, if you intend to make me a knight, I wish it may be one of your poor

[1] Luttrell's Diary, ii. 259; Evelyn's Diary, iii. 363.

knights of Windsor, and then I shall have a fortune at least able to support my title."[1]

Luttrell (iii. 387) relates that in 1694 some of the students created a great disturbance in opposition to some order of the benchers, and were bound over to appear in the court of King's Bench. On the first day of Michaelmas Term the judges only reprimanded them and advised their submission: but continued them on their recognisance.

By the Report of 1855 (p. 66) it appears that in 1688 the readers paid 200*l.* for their reading; but that the reading was a sinecure.

BARNARD'S INN.—An order in the books of this Inn made in Michaelmas Term, 1693, that the commons for the house shall be dinners only, without suppers, shows the dietary then established: "On Sundays, boiled mutton and broth of the value of the former suppers to be added to the roast beef, without paying any extras. Monday, boiled beef as formerly and roast mutton of the value of the supper to be added. Tuesday, boiled mutton and broth as formerly and veal or lamb according to the season roasted, of the value of the supper to be added without paying extra. Wednesday, same as Monday. Thursday, same as Sunday. Friday, same as formerly. Saturday, milk porridge and salt fish with butter and eggs."

STAPLE INN.—In 1694 a member paid a fine of 3*l.* 6*s.* 8*d.* for refusing the office of principal.

[1] Pearce's Inns of Court, 288, quoting the "Life of Richard Nash."

BIOGRAPHICAL NOTICES

OF

THE JUDGES UNDER THE REIGN OF WILLIAM III.

ATKYNS, ROBERT.

CH. B. E. 1689.

See under the reign of Charles II.

THIS eminent judge was the eldest son of the first Sir Edward Atkyns, and the elder brother of the second Sir Edward, both of whose histories have been recorded in the present volume. He was born in 1621. At which of the universities he was educated is disputed; Chalmers claiming him as a member of Balliol College, Oxford, and Dyer as of Sidney Sussex College, Cambridge. The latter statement seems the more probable, because in Anthony Wood there is no record of his admission, but only that a Sir Robert Atkyns, whom he supposes to be the judge, was created M.A. on occasion of the visit of the king to Oxford in 1663.[1] But there is no doubt that he pursued his legal studies at Lincoln's Inn, where he was admitted in 1638, and was called to the bar in 1645. He became a bencher in 1661, and autumn reader in 1664; but long ere that date he commanded a good business as an advocate, his name appearing frequently throughout Hardres' Reports; and so great was his success in his profession that he was enabled to purchase several estates in Gloucestershire.

[1] Chalmers' Oxford, 60; Dyer's Cambridge, ii. 437; Fasti Oxon. ii. 273.

Though he was elected member for Evesham in Protector Richard's parliament of 1659 he made himself but little conspicuous in politics; but was so well reputed for loyalty that on the Restoration he was selected as one of the persons of distinction who were created knights of the Bath at Charles's coronation. About the same time also he was chosen recorder of Bristol; and on the king's marriage was made solicitor-general to the queen. His royal mistress some time after rewarded him with a reversionary grant of the mastership of St. Catharine's, which however did not fall in till the year after his removal from the bench; when the grant was disputed, and the decision was pronounced in favour of his opponent.[1]

Sir Robert represented Penryn in the parliament that met in 1661; which was not dissolved for more than six years after he was called to the bench. While he remained a member he paid assiduous attention to its business; and on the impeachment of the Earl of Clarendon, he spoke against its proceeding.[2] Little more than two years after his father's death in 1669 he was himself called to the bench, being constituted a judge of the Common Pleas on April 15, 1672, on Sir Thomas Tyrrell's death. During the eight years he occupied that position he presided sometimes alone and sometimes with other judges, but always with fairness and moderation, at many of the trials connected with the popish plot, in the existence of which he appears to have fully believed. The chief of his court was Sir Francis North with whom he was not on good terms. Roger North, naturally siding with his brother, speaks disparagingly of Sir Robert, saying that he took all opportunities to cross the chief justice. But on a dispute between them relative to the appointment of a prothonotary, he betrays the fact that

[1] Middle Temple Books; Dugdale; Luttrell's Diary, i. 118, 145.
[2] Parl. Hist. iv. 381.

his brother could be sharp upon Sir Robert, and acknowledges that the chief said to him in allusion to his connection with the Whig party "That he should know that here was no republic." To this Sir Robert answered "No, nor monarchy."[1] An unseemly altercation to occur in court! He had the misfortune to go the Oxford circuit with Chief Justice Scroggs, to whom his constitutional opinions were so obnoxious that Scroggs retailed them to the court. Whether Sir Robert was dismissed in consequence, or voluntarily resigned on finding that his colleagues and the government were discontented with him, does not precisely appear. But he received his quietus on February 6, 1680; and on his examination before the House of Commons in 1689 he attributed his removal principally to the two chief justices, besides enumerating other causes, viz. his expressed objections against pensions to parliament men; his assertion of the people's right to petition; and his denial of the king's power without parliament, to forbid the publication of books.[2] Before his removal his younger brother Edward had been raised to the bench of the Exchequer, and in the succeeding reign had been promoted to be its chief.

The presumed displeasure of the court stirred up the corporation of Bristol to oust Sir Robert from the recordership, first by prepared insults and next by a prosecution for a pretended riot in an irregular civil election. They succeeded in procuring a conviction; but the judgment was arrested by the court, Sir Robert appearing in person to argue the case. He was however persuaded for the sake of peace, to resign the place, which was the real bone of contention. On his removal from the bench he led a private life in the country; not resuming his practice at the bar, except that on the prosecution of Sir William Williams

[1] Life of Lord Keeper Guilford, 184.

[2] Luttrell's Diary, i. 35; Parl. Hist. v. 308; State Trials, viii. 193.

for the publication, as speaker, of Dangerfield's Narrative, he is said to have volunteered his assistance, and to have actually been obliged to borrow a bar gown in order to deliver his argument in court. This is stated on the authority of a descendant of the speaker, but is doubted by Mr. Jardine, in his able life of the judge, because the ordinary reporters omit all notice of Sir Robert's argument and only mention Pollexfen and Jones as counsel for the defendant. The speech itself, many will think, bears strong internal evidence of the truth of the relation of the speaker's descendant.[1]

During the interval of Sir Robert's retirement he naturally took great interest in the political questions that agitated the country. He advised on the line of defence to be taken by Lord Russell, and after the revolution he issued two tracts in assertion of that nobleman's innocence. King James's attempt to dispense with the penal statutes was resisted by this constitutional lawyer, in the publication of a lucid argument proving its illegality. He also printed a discourse relative to the ecclesiastical commission issued by that monarch. These and some other of his tracts were collected in a volume which was published in 1734. It does not appear that he took any further part in promoting the revolution, than attending the Lords on their summons as one of their advisers after James's flight. His reputation as a lawyer was so high as to ensure the admission of his name into the lists which King William desired the privy councillors to send in, and he was fixed upon to fill the office of lord chief baron. He is said to have declined it for some time, probably from a disinclination to supersede his brother in the place. But when he saw that his refusal would not secure his brother's reappointment, he was induced to accept the office, and there are bills addressed to him in that character dated

[1] Luttrell, i. 127, 234, 254; 2 Shower, 248; State Trials, xiii. 1380.

April 19, 1689. In the following October, the Great Seal being in commission, Sir Robert was appointed speaker of the House of Lords, over whom he presided till March, 1693, when Lord Somers was constituted lord keeper. He was then evidently desirous to resign his judicial seat, for Sir William Rawlinson was named by the king as his successor, but being objected to by the lord keeper Sir Robert was induced to remain till October 22 in the next year, when he surrendered his office by inrolment in Chancery, being then seventy-three years old. He lived about fifteen years more, residing quietly at his manor of Saperton near Cirencester: where on February 18, 1710, he died after half an hour's indisposition.[1] There is a monument to the memory of him and his father and brother in Westminster Abbey.

By his first wife Mary daughter of Sir George Clerk of Watford in Northamptonshire he had no issue. By his second wife Anne daughter of Sir Thomas Dacre, and great niece of his father's wife, Ursula Dacre, he had a son, Robert, the author of the "History of Gloucestershire," and a daughter who married into the Tracy family.[2]

BLENCOWE, JOHN.

B. E. 1696. JUST. C. P. 1697.

See under the reigns of Anne and George I.

BRADBURY, GEORGE.

CURS. B. E. 1689.

GEORGE BRADBURY is described as the eldest son of Henry Bradbury of St. Martin's-in-the-fields, Middlesex, in his admittance to the Society of the Middle Temple on June 28, 1660. Though he was called to the bar on May 17, 1667, he does not seem to have been in much court-practice. The

[1] Luttrell, i. 490, 522, 593, iii. 386, iv. 547; Lord Campbell's Chancellors, iv. 120.

[2] Atkyns' Gloucestershire; Jardine's Life, in Biog. Dict. Soc. Diff. U. K.

first time we hear of him is as junior counsel in the famous trial in 1684, in which Lady Ivy attempted to establish her claim to lands at Shadwell by certain deeds of very doubtful authenticity. Mr. Bradbury alleged that their forgery was manifest, from the description of the year in Philip and Mary's reign, in which they professed to have been executed, being by a title which was not assumed by the king and queen till after the date they bore; and Chief Justice Jeffreys applauded him for the ingenuity of the discovery. The learned counsel, not content with this unaccustomed compliment from his rough chief, by reiterating his remark later in the trial brought down upon himself this silencing castigation: "Lord, sir," exclaimed Jeffreys, "you must be cackling, too; we told you your objection was very ingenious; but that must not make you troublesome; you cannot lay an egg, but you must be cackling over it."

That he must have been considerably distinguished as a lawyer may be inferred from his being summoned in December 1688 with the chiefs of his profession to consult with the Lords as to what was to be done on the emergency that had then occurred. In July of the next year he was assigned by the House of Lords as counsel for Sir Adam Blair, Dr. Elliott, and others, the impeachment of whom for dispersing King James's declaration does not appear to have been afterwards prosecuted. On the 9th of the same month he was appointed cursitor baron of the Exchequer, on the death of Mr. Baron Carr; whereupon he was elected a bencher of his inn. He held the office till his death, which occurred on February 12, 1696.[1]

BURY, THOMAS.

B. E. 1700.

See under the reigns of Anne and George I.

[1] State Trials, x. 616, 626; Luttrell's Diary, i. 490, 555, 557, iv. 17; Parl. Hist. v. 362; Pat. 1 W. & M. p. 4.

CARR, WILLIAM.

CURS. B. E. 1689.

See under the reign of James II.

THE usual fate that attends most of the cursitor barons of the Exchequer accompanies William Carr, of whom the only facts that are known are that in his admission to Gray's Inn in December, 1655, he is described of Newington, Middlesex; that he was called to the bar in May, 1663; that he succeeded Sir Richard May as cursitor baron between 1685 and 1688; that he retained his office at the Revolution; and that he died before July 9, 1689, when George Bradbury was appointed to succeed him.[1]

DOLBEN, WILLIAM.

JUST. K. B. 1689.

See under the reign of Charles II.

OF an ancient and respectable Denbighshire family, Dr. William Dolben, rector of Stanwick in Northumberland, by his wife Elizabeth, daughter of Hugh Williams, Esq. of Coghwillan in Carnarvonshire, and niece to the lord keeper, Archbishop Williams, had three sons, John, William, and Rowland. Rowland entered the sea service and died unmarried; John became archbishop of York, and was the father of Gilbert, the judge of the Common Pleas in Ireland from 1700 to 1719, who was created a baronet by Queen Anne; and William was the English judge whose career is now to be traced.[2]

He does not appear to have been educated at either university, though he received the honorary degree of M.A. at Oxford, on the occasion of Lord Manchester's visit there in 1665;[3] but, being destined for the law, he pursued his

[1] Gray's Inn Books; Luttrell, i. 557; Pat. 1 W. & M. p. 1.

[2] Wotton's Baronet. iv. 95. [3] Wood's Fasti Oxon. ii. 235.

studies at the Inner Temple (described in his admission as of the city of Lincoln) from September, 1648, till November, 1653, when he was called to the bar. He was elected a bencher in 1672, and autumn reader in 1677. As he does not seem to have mixed much in the politics of the time, his legal merits must have procured him a royal recommendation for the recordership of the city of London, to which he was elected on February 8, 1676, and knighted. He held the place till he was advanced to the bench, when the corporation voted him a piece of plate "as a loving remembrance."[1]

In the great batch of serjeants called in 1677 he was the first named, and was immediately made one of the king's serjeants. In this character he opened the trial of the Earl of Pembroke for the murder of Nathaniel Cony before the House of Lords, when the earl was found guilty of manslaughter. On October 23, 1678, he was constituted a judge of the King's Bench; and it was his misfortune to sit under Sir William Scroggs as chief, and to be present at all the trials arising out of the popish plot, in the existence of which, as far as it appears, he had a firm belief. But he saw and fairly pointed out the inconsistencies and improbabilities of the evidence against Sir Thomas Gascoigne, which resulted in an acquittal. In 1681, Sir Francis Pemberton being then chief justice, he was in favour of Fitzharris's plea to the jurisdiction of the court, in opposition to the rest of the bench; and at the trial of Sir Thomas Stapleton at York for high treason he summed up favourably for the prisoner, who was thereupon acquitted.[2] Being found to be too independent, and suspected of not siding with the crown in its attempt against the charter of the city of London, he was, according to the vicious practice of the time, suddenly superseded on April 20, 1683, just before the judgment against

[1] Inner Temple Books; City List of Recorders.

[2] Dugdale's Chron. Ser; State Trials, vi. 1321, vii. 964, viii. 326, 523.

the city was pronounced. Whether he returned to the bar is uncertain.

On the formation of the new government at the Revolution, Sir William Dolben was replaced in his former seat, and was sworn into office on March 11, 1689. On the 29th of the following month, in delivering a charge to the grand jury in the King's Bench, Narcissus Luttrell says that "he inveighed mightily against the corruption of juries the last seven years, and gave in charge the laws against Papists." The same diarist records that on a similar occasion in 1691 he directed the grand jury "to enquire into malecontents to the government, such as disturbed the peace of the kingdom by dispersing seditious and false news." He died on January 25, 1694, seized with an apoplectic fit while going into court, and was buried in the Temple church.[1]

EYRE, GILES.

JUST. K. B. 1689.

THE ancient and distinguished Wiltshire family of Eyre has supplied no less than three, and perhaps four, members to the judicial bench: two in this reign, Sir Giles and Sir Samuel; one, Sir Robert, from the reign of Anne to that of George II.; and the fourth, Sir James (whose connection with the Wiltshire family is not perfectly traced), in the reign of George III.; the two last becoming chief justices of the Common Pleas. Their common ancestor was Humphrey le Heyr, who accompanied Richard Cœur de Lion to the Holy Land. One of his lineal descendants, Giles Eyre, settled at Brickworth in Whiteparish, and had several children, one of the younger of whom emigrated with Ludlow to Ireland, and was the ancestor of Lord Eyre of Eyre Court in the county of Galway, a title which died with the grantee in 1792. The eldest son, named also Giles,

[1] Parl. Hist. v. 310; Luttrell's Diary, i. 509, 527, ii. 253, 259, 262.

succeeded to Brickworth, and represented Downton in the parliament of 1660 and 1661. By his marriage with Anne, daughter of Sir Richard Norton of Rotherfield, Hants, Bart., he became the father of Sir Giles Eyre, the judge; who was admitted a member of Lincoln's Inn in October 1654, and called to the bar in November 1661.

Of his early life we have no further account, except that he lost his first wife, Dorothy, daughter of John Ryves of Ranston in Dorsetshire, in 1677. To her monument in Whiteparish church he attached an inscription in anticipation of his own death, leaving the date in blank, with eight lines expressing the warmest affection for her, and implying the impossibility of his ever being united to another. Notwithstanding this monogamistic resolution, we find that he afterwards married a second wife, who occupied the same grave with her predecessor.

In 1675 the corporation of Salisbury presented him with a tankard of 10*l.* value for his services in procuring their charter, being then their deputy-recorder. He was afterwards elected recorder, but lost his place on the subsequent seizure of the charters. On the renewal of them in 1688 however he was restored; and was elected representative of that city to the Convention Parliament. He took part in the conference with the lords as to the vote of abdication, and in all the debates showed himself a hearty supporter of the new government. This inclination, added to his reputation at the bar, where he had a considerable practice, naturally pointed him out for promotion. He was accordingly immediately made a serjeant, and on the settlement of the court of King's Bench was constituted one of the judges of it on May 4, 1689, receiving soon after the honour of knighthood. After filling this seat with great credit for six years, he died on June 2, 1695, and was buried in Whiteparish church.

The Christian name of his second wife was Christabella; that of her family has not been discovered. She survived the judge, and took for her second husband Lord Glasford, a Scotch papist, from whom she withdrew in 1699, leaving him a prisoner for debt in the Fleet, where he died in November 1703. The judge left issue by both his wives. Some of the male representatives of his family have had seats in parliament, and all of them have been, and still are, held in high estimation in their native county. One of his female descendants married Thomas Bolton, the nephew of Admiral Lord Nelson, who succeeded to that earldom in 1835.[1]

EYRE, SAMUEL.

JUST. K. B. 1694.

SIR SAMUEL EYRE was the second cousin of Sir Giles Eyre, both having the same great-grandfather. He was the son of Robert Eyre of Salisbury and Chilhampton, and Anne daughter of Samuel Aldersey of Aldersey in Cheshire; and was born in 1633. As his father had done before him, he took the degree of barrister at Lincoln's Inn in June 1661, having been admitted to that society seven years before. He pursued his profession with considerable success, to which the patronage of the Earl of Shaftesbury, to whom he was reputed to be the confidential adviser, in some measure probably contributed, though the same cause in all likelihood prevented his promotion in Charles's and in James's reigns. After the Revolution he was created a serjeant on April 21, 1692; and from that rank was advanced on February 22, 1694, to take his place by the side of his cousin Sir Giles, as a judge of the King's Bench.

Shortly after his appointment, Charles Knollys, claiming

[1] Sir R. C. Hoare's South Wiltshire; Frustfield, 15, 20, 56; Salisbury, 475, 484, 487; Parl. Hist. v. 107, &c.; Luttrell's Diary, i. 529, iv. 549; Topog. and Geneal. iii. 147.

to be Earl of Banbury, who had been indicted for the murder of Captain Lawson, his brother-in-law, and had pleaded his peerage, brought the question into the court of King's Bench, where judgment was given in the defendant's favour in Trinity Term, 1694. On the discussion of the claim of peerage nearly four years afterwards Chief Justice Holt and Sir Samuel Eyre were called before the House of Lords and required to give their reasons for that judgment. They resolutely and properly declined to do so, unless it came before the House on a writ of error: and their lordships, though thus foiled in their irregular requisition, after threatening the two judges with the Tower for their refusal to answer, found it expedient to let the matter drop. Seven months after this incident Sir Samuel was seized with the colic, just upon finishing the circuit at Lancaster, where he died on September 12, 1698. His body, after being interred there, was removed to the family vault in St. Thomas's Church, Salisbury; a costly monument to his memory being erected at the former place.

He is described as of Newhouse, an estate he purchased of his cousin William Eyre, Esq., in Whiteparish, in which Brickworth the seat of Sir Giles Eyre is also situate. His wife, Martha, daughter of Francis, fifth son of Sir Thomas Lucy of Charlecote in Warwickshire, brought him a large family, the eldest of whom, Chief Justice Sir Robert Eyre, will be noticed under the reign of George II.[1]

GOULD, HENRY.

JUST. K. B. 1699.

See under the reign of Anne.

[1] Sir R. C. Hoare's South Wilts; Frustfield, 58; Luttrell's Diary, ii. 427; iii. 273, iv. 343, 428, 436; 1 Lord Raymond, 10; State Trials, xii. 1179.

GREGORY, WILLIAM.

JUST. K. B. 1689.

See under the reigns of Charles II. and James II.

WILLIAM GREGORY was the second but only surviving son of the Rev. Robert Gregory, vicar of Fawnthorpe and rector of Sutton St. Nicholas in Herefordshire, and Anne daughter of John Harvey, of Bradestone in Gloucestershire. He was born on March 1, 1624, and educated at All Souls College, Oxford, of which he was afterwards admitted a fellow, a distinction which his father had previously held. Entering the Society of Gray's Inn in 1640, he was called to the bar in 1650, made bencher in 1673, and elected autumn reader in 1675. He travelled the Oxford circuit, and held several lucrative stewardships. Though his name does not appear frequently in the reports, he attained sufficient eminence in the law to be elected recorder of Gloucester in 1672, to be created a serjeant in 1677, and to be returned as member for Weobly, in his native county, on a vacancy that occurred in the last year of Charles's second parliament which was dissolved in January 1679; and to the new one summoned for the following March. When the latter met, the king rejected Mr. Seymour, who had been chosen speaker in opposition to the nominee of the court, to the great indignation of the house, which would not give up the privilege of choice. On a compromise, however, both candidates were excluded, and Mr. Serjeant Gregory, having been called to the chair, was immediately approved by the king.[1]

In that parliament, which only lasted two months, but had the credit of passing the Habeas Corpus Act, parties ran so high that, though a supply was granted and the bill read a third time, the opposition took every means to delay sending it up to the Lords, till their grievances were inquired into.

[1] Pearce's Inns of Court, 344; Dugdale; Parl. Hist. iv. 1112.

Roger North relates that the Speaker Gregory one day, by a concerted plan immediately upon a member moving for the carrying up of the bill, rose from his chair without putting the question and followed by the court party, before the opposition could have time to say a word, carried up the bill to the Lords, where the king being on his throne, at once gave it his fiat. At this time, the king having newly arranged the ministry, reducing the council to thirty members and making the Earl of Shaftesbury the nominal president of it, four of the judges,—Wilde, Thurland, Bertie, and Bramston,—were summarily dismissed on April 29. In the place of the last Serjeant Gregory was appointed a baron of the Exchequer, and was thereupon knighted. Though his patent is dated May 1, it is evident that he was not sworn in, nor his nomination announced, till some time after, for he still continued to sit as speaker till the prorogation of the parliament on the 26th of that month, which was followed by a dissolution in August. The trial of Sir Miles Stapleton for high treason at York took place before him and Judge Dolben in 1681, when, though they seemed inclined to believe the evidence against him, they left the case fairly to the jury, who acquitted him.[1] Sir William retained his place till the end of the first year of James's reign, when on February 10, 1686, he was discharged in consequence, as he himself relates, of giving his opinion against the king's dispensing power.[2] In the following year he was removed by royal mandate from the recordership of Gloucester.

To the Convention Parliament which met on January 22, 1689, Sir William was returned for the city of Hereford, but soon vacated his seat on being selected by King William as one of the judges of the King's Bench. In one of his circuits the mayor of Bristol thought proper to send him a

[1] Examen, 460; State Trials, vii. 524.

[2] Parl. Hist. v. 312; Bramston's Autobiography, 221.

message that he must not expect to have his charges borne by the city, to which he replied that they need not be frightened, for that he could bear his own expenses: but receiving great insolences from the people on his entrance he found that a purposed affront was intended. He therefore on the sitting of the court, promptly fined the city 100*l.* and each sheriff 20*l.*; and would not remit the fine till they had submitted and apologised. He maintained throughout his judicial life the character for integrity he had gained; and dying on May 28, 1696, at his manor of How Capel, Herefordshire, he was buried in the parish church there, which he had entirely rebuilt. By his wife Catherine, daughter and heiress of James Smith, Esq., of Tillington, he had an only son, whose descendants in the male line failed in 1789.[1]

HATSELL, HENRY.

B. E. 1697.

See under the reign of Anne.

HOLT, JOHN.

CH. K. B. 1689.

See under the reign of Anne.

HUTCHINS, GEORGE.

COM. G. S. 1690.

NARCISSUS LUTTRELL relates in his Diary that on a motion in Chancery relative to the guardianship of a child, Parson Hickeringill the claimant said of Sir George Hutchins, who was counsel against him, that they were something akin to each other, not by consanguinity, but by affinity; for he was a clerk, and Sir George's father was a parish clerk. Whether this story had any foundation, or was only invented for the purpose which it effected, "of setting the court a laughing," I have not been able to discover. Sir George is described in the Gray's Inn books as

[1] Manning's Speakers, 374; Kennett's Hist. iii. 528; Luttrell, ii. 277.

son and heir of Edmund Hutchins of Georgham in Devonshire, gentleman. He was admitted into that Society on May 19, 1666, and is stated to have been called to the bar in August of the following year; which is so uncommonly early as to be only accounted for by supposing that he had been previously entered of some other inn of court, and afterwards removed to Gray's Inn, where his former time was counted.

He was summoned by James II. in Easter 1686 to take the degree of the coif, and in May 1689 was appointed king's serjeant to William III., who knighted him in the following October. In May of the next year, on the retirement of Sir Anthony Keck, he was nominated third commissioner of the Great Seal—an office which he filled for nearly three years, till Sir John Somers was appointed lord keeper on March 22, 1693. On his discharge Sir George claimed a right to retain his former position of king's serjeant, and on the question being referred to the judges, they determined that, though his appointment of lord commissioner did not deprive him of his degree of the coif, it extinguished his post of king's serjeant, which was merely an office conferred by the crown. The king however reappointed him his serjeant on May 6. He continued to practise at the bar till his death at his house in Grevill Street, Holborn, on July 6, 1705; and his success may be estimated by the fact that on the marriage in 1697 of his two daughters (afterwards his co-heirs) he gave each of them a portion of 20,000*l*. The husband of Anne, the second daughter, was William Peere Williams, the eminent Chancery reporter of that time; and their eldest son, Sir Hutchins Williams, was in 1747 honoured with a baronetcy, which became extinct in 1784 by failure of issue.[1]

[1] Luttrell's Diary, i. 529, 598, iii. 93, iv. 289, 651, v. 570; 3 Levinz, 351; Burke's Ext. Baronetcy.

KECK, ANTHONY.

COM. G. S. 1689.

OF Anthony Keck we have few memorials, beyond his appointment as second commissioner of the Great Seal on March 4, 1689, when King William and Queen Mary had settled themselves on the throne. He is described in the books of the Inner Temple, to which society he was admitted in 1653, as the son of Nicholas Kewk of Oldcowcliffe in Oxfordshire. Attaining the degree of barrister in 1660, he became a bencher in 1677. That as an advocate in chancery he acquired a great reputation may be inferred from his being selected at such a crisis as one of the heads of the court. He was at the same time knighted. His tenure of office lasted only fourteen months, Sir John Trevor and Sir George Hutchins being substituted on May 14, 1690, for him and Sir John Maynard. After his retirement from the Seal he was returned to parliament for Tiverton in 1691; and died in December 1695. In 1697 was published a compilation from his papers under the title of "Cases argued and decreed in the High Court of Chancery from the twelfth year of Charles the Second to the thirty-first." One of his daughters married Richard Freeman, who became Lord Chancellor of Ireland; and another married into the Tracy family.[1]

LECHMERE, NICHOLAS.

B. E. 1689.

THE family of Lechmere is second to none in antiquity and reputation. Of foreign origin, the first who settled in England accompanied William the Norman in his invasion of the land, and was rewarded with a grant of broad acres in Hanley in Worcestershire. Nicholas Lechmere was the

[1] Atkyns' Gloucestersh. 133, 360; Luttrell, ii. 217, iii. 567; Welsby's Lives, 74.

third, but eldest surviving son of Edmund Lechmere of Hanley Castle, by Margaret the sister of the accomplished and ill-fated Sir Thomas Overbury. He was born in September 1613, the year in which his uncle was poisoned in the Tower; and was bred up in Gloucester School, whence he was removed to Wadham College, Oxford. After taking his degree of B.A. he became a student of the law at the Middle Temple in October 1634; where he was called to the bar in 1641, and elected a bencher in 1655. Before that date he had taken a prominent part on the side of the parliament against Charles I. His name is appended, with several others, to a summons to the governor of Worcester in June 1646; and he was one of the committee who came to that city on its surrender in the following month.[1] In 1648 he was elected to supply the place of Sir Henry Herbert, who was disabled, as representative of Bewdley, and sat during the remainder of the Long Parliament. When Charles II., accompanied by the Scotch army, possessed himself of Worcester in 1651, Hanley Castle was twice used by the Scottish horse as their quarters, while its master joined Cromwell's forces and shared in his triumph at the battle. In Cromwell's second parliament of 1654 Lechmere was one of the five members for Worcestershire; and in the Protector's third and last parliament of 1656 he again represented the county, and, having received the approbation of the council, was not secluded from the house, as many of the suspected malcontents were. In it he promoted the Petition and Advice, pressed that it should be published, called it a Magna Charta, and afterwards likened it to the Petition of Right. Before Cromwell's death he was appointed attorney of the duchy of Lancaster, and walked in that character at the protector's funeral. In this office he was continued under Richard, in whose parliament he was one of his staunchest supporters.

[1] Nash's Worcestershire, vol. ii. app. c. ci. cvi.

On its dissolution he took his place as part of the Rump, both before and after its second expulsion. Two days previously to its dissolving itself in preparation for the king's return, a bill was passed for reviving the duchy of Lancaster, and Nicholas Lechmere was voted its attorney.[1]

In the meantime Lechmere had made his peace with the king, who before he left Breda granted him a full pardon: but, though his personal safety was thus secured, he could not, as one of the Rump, expect to be elected for the Convention Parliament, the members of which were chosen mostly from men of unquestioned loyalty; and during the rest of his life he never resumed his senatorial dignity. In his legal capacity he bore a good reputation. His name occurs frequently in Hardres' Reports; and Pepys records a consultation with him. It is evident that he enjoyed an ample share of professional emoluments, from his being enabled not only to repurchase those portions of the patrimonial estates which had been alienated by the former necessities of the family, but to add other lands and manors to it; besides expending a considerable amount in the improvement of the family mansion. Beyond his appointment of reader of his Inn in Lent 1669, the history of his life contains no noticeable incident, during the reigns of Charles II. and James II.: but at the Revolution his exemplary character, and, perhaps, his early opposition to the Stuart dynasty, recommended him to the new government. Though he had attained the age of seventy-six he was raised to the bench of the Exchequer on May 4, 1689, and was thereupon knighted. He sat there for eleven years; but in the last year he was so infirm that he sent his opinion on the bankers' case in writing; and was obliged to be excused from going the circuit. He received his quietus at the end of June

[1] Parl. Hist. ii. 624, iii. 1583, Burton's Diary, ii. 136, 526, iii. 586.

1700; and on April 30 in the following year he died at his mansion at Hanley, in the eighty-eighth year of his age.[1]

Sir Nicholas in 1642 married Penelope daughter of Sir Edwin Sandys of Northborne in Kent, and left several children. Edmund his heir was the father of two sons, Anthony and Nicholas. Anthony's grandson, of the same name, received the honour of a baronetcy in 1818, and his representative is Sir Edmund Anthony Harley Lechmere, baronet, late high sheriff of Worcestershire.[2] Nicholas became an eminent lawyer, was recorder of Gloucester, solicitor and attorney-general, and eventually chancellor of the duchy of Lancaster to George I., who in 1721 raised him to the peerage as Baron Lechmere of Evesham, a title which became extinct on his death without issue in 1727. Several other existing branches trace their origin to the judge, and support the high reputation of the family.[3]

MAYNARD, JOHN.

Com. G. S. 1689.

In the history of Sir John Maynard we have the remarkable instance of a man not only raised to the judicial bench, but placed on its highest seat as first commissioner of the Great Seal at the age of eighty-seven years; apparently indicating either the deficiency of competent persons to fill the high office at the period of his elevation, or the blamable omission of previous rulers in overlooking or neglecting an eminent individual. Without admitting either of these suggestions, a sufficient explanation may be found by considering the political necessity of the time of his appointment in connection with the political status he held in the preceding reigns.

[1] Pepys' Diary, i. 337; Luttrell, i. 529, iv. 606, 652, 661, v. 49.

[2] To the kindness and liberality of this gentleman I am much indebted for the use of the judge's interesting journal, which has supplied me with many of the facts in this sketch.

[3] Nash's Worcestershire; Collins's Peerage, ix. 431.

At all events, his selection for this responsible post affords a manifest testimony of his wondrous retention of mental powers at so extreme an age.

John Maynard was born at Tavistock in 1602. He was the son of Alexander Maynard a gentleman of that town, who was probably a barrister also, from his being described of the Middle Temple in his son's admission to that inn in 1619. In the next year he took the degree of B.A. at Oxford and is stated by Anthony Wood in his "Athenæ" to have been of Exeter College, but in his "Fasti" of Queen's College. He was returned for Chippenham to the first parliament of Charles I. in 1625, while yet a student of the law; and we find him speaking in opposition to the subsidies demanded. This parliament lasted but nine months, and he does not appear in those of 1626 or 1628. In November 1626 he was called to the bar and got into such early practice as to be reported by Croke two years after, from which time his business rapidly increased, his intelligence and ability having attracted the attention and gained the friendship of Attorney-General Noy, which greatly assisted his advancement.[1]

In the parliaments of April and November 1640 he was returned for Totness in his native county. In both he had for his colleague the future Chief Justice Oliver St. John; with whom he was added to the committee to manage the impeachment of the Earl of Strafford, and opened one of the charges against him. Of such importance did the party deem the earl's conviction that on the day the king passed the act of attainder, Maynard said with great joy to Sir John Bramston, "Now have we done our work; if we could not have effected this, we could have done nothing." He was one of the managers also in the prosecution of Archbishop Laud; and in exposing the real grievances of the

[1] Ath. Oxon. iv. 292; Fasti, i. 386; Parl. Hist. ii. 32; Mid. Temple Books.

country he took a very active part, in conjunction with his friend and companion Edward Hyde, the future Earl of Clarendon, who gives him the credit of conducting his opposition with less rancour and malice than his enterprising colleagues, and characterises him as of eminent parts and great learning out of his profesession, and in it of signal reputation. In the course of the revolutionary proceedings contentions naturally arose between the temperate and violent members of the party, and Whitelocke and Maynard were called upon by Lord General Essex and the Scotch Commissioners to give the perilous counsel whether Cromwell could not be proceeded against as an incendiary. They so managed however as to escape the danger, and, though of the Presbyterian party, to make Cromwell their friend. In the division of the spoil seized from the "malignants," Maynard got a vote for the books of Chief Justice Banks; and at this time he was so popular an advocate that he gained 700*l.* in one circuit, a sum, Whitelocke says, larger than any barrister ever got before. In 1648 he was elected a bencher of his Inn.[1]

Against the motion made in that year that the parliament should make no more addresses to Charles, Maynard spoke forcibly but unsuccessfully: and on the subsequent debate on the famous remonstrance from the army demanding justice upon the king, he is described as arguing as if he had taken fees on both sides, one while magnifying the gallant deeds of the army, and then "firking" them for their remonstrance, as tending to the destruction of the kingdom and the dissolution of the government.[2] From this time he seems voluntarily to have seceded from the house, and to have taken no part in the violent measures that followed.[3] He

[1] Whitelocke, 39, 83, 116, 177, 273; Bramston, 75; Clarendon's Life, i. 67.
[2] Clarendon's Rebellion, v. 516; Parl. Hist. iii. 1128.
[3] Lord Campbell (Chancellors, iv. 12) erroneously confounds him with Sir

was not summoned by Cromwell to the Barebones' parliament in 1653; nor was he a member of that of 1654; but in Cromwell's third parliament of 1656 he was returned for the borough of Plymouth.

In the interval he pursued his profession with credit and success; and in State prosecutions he was engaged now for and now against the Commonwealth. In the case of Cony, who brought an action against a collector for violently seizing certain customs, Maynard argued showing the illegality of the seizure, whereupon Cromwell committed him to the Tower, and Ludlow unjustly abuses him for the submission he was necessitated to make before he was released, as if a continuance of resistance to irresponsible power would have been beneficial to his client or the country. It is clear however that Cromwell, though he thought it expedient to support his own impositions, felt no animosity against Maynard, whom he called to the degree of the coif in 1654, and made serjeant to the commonwealth in May 1658.[1]

The parliament that met in September 1656 was dissolved on February 4, 1658. In the course of the first session Mr. Lister presented a petition against him, with respect to some property applied to charitable uses in Devonshire, to which Mr. Lister's wife, the great-grand-daughter of Serjeant Hele, claimed a title. Maynard was only concerned as a trustee, and the matter was arranged to his satisfaction, Whitelocke giving him a high character during the debate. The serjeant does not appear to have taken any part in the proposal to give the title of king to Cromwell; and he himself subsequently declared that he "was not at the making of the petition and advice," under which the commonwealth

John Maynard, K. B, the Member for Lostwithiel, and brother of the first Lord Maynard, who in 1648 was impeached for high treason, fined 500*l.*, and committed to the Tower. Townsend also, in his History of the House of Commons (p. 345), falls into the same mistake.

[1] State Trials, v. 348, 432; Ludlow, 223; Whitelocke, 673.

was re-settled, and the lord-protector reconstituted. The few instances of his addressing the house were confined to questions of form, abstaining entirely from political subjects, except on the day of the dissolution, when he made an able speech in favour of calling the "other House" the House of Lords. This no doubt was the cause of the Protector's advancing him two months after to be one of his serjeants; in which character he walked in Cromwell's funeral procession in the following November. In Protector Richard's parliament, which sat only from January 27 to April 22, 1659, and was principally occupied in disputes relative to the protector's title and to the "other House," he was returned for Beeralston, for Camelford, and for Newton in the Isle of Wight, and elected to sit for the latter place. His language in speaking in favour of the Recognition Bill was manifestly contrived with a view to a future change.[1] On the termination of Richard's power, Maynard was wise enough not to take his seat at the first meeting of the Rump; but on its second renewal, and the appearance of Monk on the scene, he not only became one of the thirty-one members of the council of state, but was appointed to carry into effect a vote discharging the declaration previously required from the members, that they would be faithful to the commonwealth, without a king or House of Lords: thus removing one of the greatest obstacles to the return of the king.[2]

This accommodation to the spirit of the times naturally led to his being confirmed at the Restoration in his degree of serjeant. It is said that he had also a judgeship offered, but that he refused the temptation. So perfectly, however, did he make his peace with the new government, that he was appointed in November 1660 one of the king's serjeants, and at the same time accepted the honour of knighthood. With

[1] Burton's Diary, ii. 184, 189, 458, 526; iii. 183. 322, 594.

[2] Parl. Hist. iii. 1583; Mercurius Politicus, No. 609, March 1.

these titles he rode at the coronation, and must have laughed in his sleeve on the remembrance that his last public appearance in a similar character was at Cromwell's funeral not two years before. According to Pepys' account he was not much beloved by the people, who wished him the same fortune as befell his brother Serjeant Glynne (Cromwell's chief justice), who was nearly killed in the same cavalcade by his horse falling over him. From this time Maynard acted the politic part of siding with the government. He preserved a discreet silence during the first session of the Convention Parliament, to which he was returned by two constituencies, Exeter and Beeralston, sitting for the former. In the second session he spoke in favour of the imposition of an excise as an equivalent for the court of wards and liveries then abolished, which was carried by a bare majority of two. The only other fact that is recorded of him in this parliament is his somewhat silly motion "That the speaker should reprove all persons that he observed talking, or but whispering or reading a paper." In all the remaining parliaments during Charles's reign he represented either Beeralston or Plymouth, and cautiously avoided attaching himself to any of the extreme parties in the state. In most of the state trials he took his natural precedence as king's serjeant, and was the principal manager for the commons in the impeachment of Lord Stafford. He was throughout a firm believer in the popish plot, and in the testimony of Oates and his infamous coadjutors; but had a convenient forgetfulness, when called upon at Oates's trial to speak in his favour.[1]

At the commencement of the reign of James II. Maynard was in his eighty-third year, but still preserved his activity and his faculties. He represented Beeralston in the only parliament called by that king, and forcibly opposed the

[1] Pepys, i. 179; Parl. Hist. iv. 149, 162; State Trials, vii. 1298; x. 1162.

encroachments of the court. He resisted the grant of a supply with the words "towards a support of additional forces," arguing that an army "might be made of those that will not take the test;" and he opposed the introduction of a bill by which words were made treason. He refused to be employed for the crown in the prosecution of the bishops; but was present as one of the king's serjeants at the council called in June 1688 to prove the genuineness of the birth of the heir to the throne, which in six months was declared to be vacant.[1]

On the Prince of Orange's arrival in London and being welcomed by the peers, the prelates, and the people, the lawyers of course were not backward in their congratulations. Maynard was at their head; and on his great age being noticed by the prince made that solitary speech which has handed him down to the present day with the undisputed title of a wit. To the prince's observation, "That he had outlived all the men of law of his time," he answered, "He had like to have outlived the law itself if his highness had not come over." He was one of the lawyers called by the peers to consult on the necessary proceedings to be taken; and in the convention or parliament summoned by the prince which met on January 22, 1689, he took his seat as member for Plymouth. He ably conducted the conference with the lords on the question of the "abdication;" and was a frequent speaker in the debate as to voting the convention a parliament. A difficulty having arisen as to filling the office of lord chancellor, which was declined both by the Earl of Nottingham and the Marquis of Halifax, it was determined to put the Great Seal into commission, and Sir John Maynard was selected as first commissioner on March 4, with Sir Anthony Keck and Sir William Rawlinson for his colleagues. Sir John did not thereby vacate his seat in the

[1] Parl. Hist. iv. 1374; Burnet, iii. 39; State Trials, xii. 125.

House of Commons, but mixed in the debates till the dissolution in January 1690; and also in the first session of the new parliament that met in the following March.[1] His speeches were short, pithy, and effective, and showed little of the garrulity of age. Soon after the adjournment he resigned his place; and on the 9th of the following October closed his long extended life in the eighty-ninth year of his age at Gunnersbury in the parish of Ealing in Middlesex, in the church of which he was buried.

Of the character of a man who passed through so many convulsions, opinions must be expected to vary according to the conflicting views of the actors in them: but in Maynard's early career we have seen two antagonistic writers, Whitelocke and Clarendon, agree in their good report of him. To the estimation of the latter he probably owed the favours he received at the Restoration,—favours which he endeavoured to repay by speaking against the great chancellor's impeachment. Burnet speaks of him only as eminent in his profession; but Burnet's annotator, Dean Swift, stigmatises him as an old rogue, and a knave and fool with all his law. With Roger North, who perforce acknowledges his legal ascendency, of course he was no favourite. He tells some paltry stories against him, calling him an "anti-restauration lawyer," and says that "his actions in the rebellious times made the Act of Indemnity smell sweet"—an expression to which the caution and discretion Roger North himself describes him as possessing are in evident contradiction. This author reports that Maynard used to lay cunning traps for the judges, but when discovered had the wisdom to desist, and was ever an excellent pattern of the decorum of bar-practice. He used to call the law "ars-bablativa," and delighted so much in his profession that he always carried one of the Year-books in his coach for his diversion, saying that it was as

[1] Burnet, iii. 341; Luttrell, i. 490, 506; Parl. Hist. v. 36-623.

good to him as a comedy. His passion for law ruled him to such a degree that he left a will purposely worded so as to cause litigation, in order that sundry questions, which had been "moot points" in his lifetime, might be settled for the benefit of posterity. No wonder then that Warburton in his "Notes on Clarendon," when speaking of Maynard's resistance in Cony's case, should describe him as a very strange man, who would support all the parliamentary violations of law, but not the protector's, for no better reason than that the law-books spoke of parliaments but not of a protector. Judge Jeffreys is said to have frequently availed himself of the serjeant's legal knowledge, but one day when Maynard was arguing against some judicial dictum, the coarse judge told him that "he had grown so old as to forget his law." "'Tis true, Sir George," he retorted, "I have forgotten more law than ever you knew."[1]

The editor of Burton's diary, and after him Lord Campbell, holds Maynard up to public censure for joining in the prosecution of Sir Harry Vane, condemned for acting, as he himself had done, under the authority of the commonwealth. But if we are to accept the account in the State Trials as the true one, the charge is entirely without foundation, since Maynard's name does not appear in it. Looking at the whole of his career, though he was not chargeable with any extraordinary faults, neither was he distinguished by any high-minded or spirited actions. After his youthful ebullition of patriotism he subsided into a plodding lawyer, taking as little part in politics as he could, accommodating himself to all governments, and devoting himself with energy and industry to his profession,—never deviating from the principles he professed, and now and then venting them,—but cautious not to offend those in power, and anxious only to

[1] Parl. Hist. iv. 377; Burnet, ii. 174 *n.*; iii. 241 *n.*; North's Lives, 19, 45, 115; Clarendon, vii. 643; Forsyth's Hortensius, 431 *n.*; Woolrych's Jeffreys, 99 *n.*

increase the amount of his fees and to retain the honours he had earned. If it be true that he refused a former offer of advancement, it cannot be supposed that he sought his last elevation, which he more probably submitted to as a necessity arising from the emergency. In short, though all must acknowledge him to have been a great lawyer, none can regard him as a great man.

He married three wives. The name of the first is not recorded. The second, whom he married in February 1656-7, was Jane, daughter of Cheney Selherst, Esq. of Tenterden, and widow of Edward Austen, Esq. On her death in 1668, he married a daughter of the Rev. Ambrose Upton, canon of Christchurch, and widow of Sir Charles Bermuden. Both these ladies were buried at Ealing, and the last of them carried the serjeant's estate of Gunnersbury to her third husband, Henry fifth Earl of Suffolk. The serjeant had two sons, John and Joseph, and several other children, the descendants of whom Noble says were numerous.[1]

NEVIL, EDWARD.

B. E. 1689. JUST. C. P. 1691.

See under the reigns of James II. and Anne.

POLLEXFEN, HENRY,

CH. C. P. 1689.

FROM one of the branches of an ancient Devonshire family, established respectively at Wembury, Kitley near Plymton, and Muddicombe, Sir Henry Pollexfen derives his descent. He was the eldest son of Andrew Pollexfen of Shorforde in that county, and was born about the year 1632. At twenty he was admitted a member of the Inner Temple, and was called to the bar by that society in 1658, and arrived at the dignity of bencher in 1674. Long before that date he had

[1] Noble's Contin. of Granger, i. 172; Gent. Mag. lix. 585.

made himself prominent in the courts, being mentioned in T. Raymond's Report so early as 1662; his own Reports commencing in 1670. He soon acquired a lead in the state prosecutions, principally for the defence. In 1679 he advised Lord Derby to plead his pardon; and was assigned as counsel for Lord Arundel, one of the five Popish lords, who however was never brought to trial. He defended Tasborough, Fitzharris, Sir Patience Ward, William Lord Russell, William Sacheverell and others, Rosewell, and Sandys against the East India Company; and delivered an able argument in support of the charters of the city of London. All these occurred in the reign of Charles II., and show that his reputed tendencies were in opposition to the court. Roger North says he "was deep in all the desperate designs against the crown," and was "a thoroughstitch enemy to the crown and monarchy." It therefore excited considerable surprise that Chief Justice Jeffreys should select him to conduct the prosecutions in the bloody western assize against the victims of Monmouth's rebellion. From the reports of the trials he does not appear to have done more than his usual duty of stating the case for the prosecution. Before the end of James's reign he resumed his original position; and on the trial of the seven bishops in June 1688, he was offered a retainer on their behalf, which he refused to accept unless Mr. Somers were associated with him. This being reluctantly conceded, as the bishops thought Somers too young and inexperienced, Pollexfen exerted himself zealously for his reverend clients, and Somers justified the recommendation of his discriminating patron, by the effective assistance he afforded.[1]

Pollexfen's opinion on King James's desertion of the government, and the establishment of the Prince of Orange at St. James's, was readily communicated to Lord Clarendon,

[1] Inner Temple Books; State Trials, vii.-xii; North's Lives, 214.

by whom he was consulted on December 15, three days after the king had been stopped at Faversham. "He wondered," he said, "that the prince had done no more; that the king, by withdrawing himself, had left the government; that he had made a cession and forfeited his right; that his being now at Faversham, though he should come back to London, signified not a rush; that the Prince of Orange had nothing to do but at the head of his army to declare himself king, and presently to issue out writs for the calling a parliament according to Cromwell's model; which he said was a far more equal way of election than the old constitution." On the 20th he was an hour in private with the prince[1]; who happily adopted less violent counsels than those Pollexfen had given. He was one of the lawyers summoned by the peers to advise them on the emergency; and was returned for the city of Exeter to the Convention Parliament, where he supported the same opinions. In February 1689 he received the appointment of attorney-general and the honour of knighthood; and when the nomination of judges took place he was made chief justice of the Common Pleas on May 4. In the following month he was called before the House of Lords for turning the Duke of Grafton out of the treasury office of the Common Pleas, which his grace held by a grant from the crown. After enjoying his promotion for little more than two years, he died at his house in Lincoln's Inn Fields from the bursting of a blood vessel on June 15, 1691; and was buried in the chancel of Woodbury church in Devonshire. His wife survived him, and died in 1695; and of his three daughters and co-heiresses one was married to Sir Francis Drake, Bart., another to John Duncomb, Esq. of Albury, and the third to John Buller of Morival.[2]

[1] Clarendon's Corresp. and Diary, ii. 227, 231

[2] Luttrell, i. 490, 506, 529, 545; ii. 247; Inscription on his tomb; Reg. St. Giles in the Fields; Prince's Worthies, 327.

Roger North adds to the opinion already given that when Pollexfen was raised to the bench "he proved the veriest butcher of a judge that hath been known:" but there does not appear any ground for so harsh a dictum. Burnet (ii. 209), more inclined to look favourably upon him, gives him but a qualified character in describing him as "an honest and learned, but perplexed lawyer:" but his colleague Judge Rokeby in recording his death describes it as "a great and publike loss, he being a very learned, upright, and usefull man." His reports, which were not published till after his death, are not held in any great repute.

POWELL, JOHN.

Just. C. P. 1689.

See under the reign of James II.

Of the two John Powells who were judges in this reign this, the senior, was, like Sir Thomas Powell, descended from a very ancient Welsh family. He was the son of John Powell of Kenward in Carmarthenshire, and was born about the year 1633. The inscription on his monument states that he received his first instructions from Jeremy Taylor, the renowned Bishop of Down, and subsequently at the university of Oxford; but Anthony Wood does not name him as taking any degree. His legal education commenced in November, 1650, at Gray's Inn, where he was called to the bar seven years after, and became an ancient in 1676. We have no detail of his professional experience, till his nomination as a judge of the Common Pleas on April 26, 1686, to supply the place of Sir Henry Bedingfield raised to the head of the court. He had three days before received the necessary degree of the coif, and was soon after knighted. In the next Trinity Term he was called upon to give his opinion with the rest of the judges at Serjeant's Inn as to the king's dispensing power in Sir Edward Hale's case, when

he required time for consideration; and, according to his own statement, the judgment was pronounced without his having had an opportunity to give his decision. The chief justice evidently considered that Powell coincided with the majority; and therefore he at that time escaped the dismission to which some of his fellows were subjected. Accordingly, on Sir Robert Wright's promotion from the King's Bench to the chief justiceship of the Common Pleas, Powell was removed to the former court on April 16, 1687: and in the same month Thomas Powell was made a baron of the Exchequer; so that there were then two judges of the name. During the whole time he sat on the bench in James's reign, he was always associated on the circuit with Sir Robert Wright;—a junction which was probably dictated by the necessity of supplying Wright's deficiency with Sir John's profound knowledge of law.[1]

Sir Robert Wright a few days after Powell's appointment to the King's Bench, was restored to that court as its chief: and Powell was therefore an unfortunate and unwilling participator in the outrageous sentence on the Earl of Devonshire, fining him in the sum of 30,000*l.*, and committing him to prison till it was paid. It must be acknowledged that when called upon by the House of Lords after the Revolution to account for this breach of privilege he made a very lame excuse. He said, "It was his great misfortune that he was misguided by some books, which he looked upon as authorities, which he finds by their lordships' judgments are not so, and he humbly begged their lordships' and the Earl of Devon's pardon. As to the fine, he looked on 3,000*l.* to be fine enough. His sentence on that business was his greatest fault, for which he also begged pardon." The lords overlooked the offence, and contented themselves with voting the committal to be a breach of privilege, and the fine to be

[1] Bramston, 225, 278; State Trials, xi. 1198; Parl. Hist. v. 333.

excessive. On June 29, 1688, came on the trial of the seven bishops; and the remarks made by Sir John Powell during its progress sufficiently indicated his opinion of the prosecution, and must have prepared his colleagues for the exposition of the law which he pronounced when his turn came. He declared that he could not see anything of sedition or any other crime fixed upon the reverend fathers, for they had with humility and decency submitted to the king not to insist on their reading his majesty's declaration, because they conceived that it was against the law of the land, it being founded on the dispensing power, which, he boldly said, if "once allowed of, there will need no parliament." The consequence of this honest demonstration, and of Justice Holloway's concurrence in it, was the bishops' acquittal, and the dismissal of both these judges. The communication of his discharge was made to him by Lord Chancellor Jeffreys, who "very kindly" told him "that he was sorry for it, but would not send the patent of revocation till the last day of the term." Powell accordingly sat out the whole term and was removed on July 7, Sir Thomas Powell being substituted for him in the King's Bench.[1]

On King William's government being established Sir John Powell was immediately restored to his original seat in the Common Pleas; a place which he preferred to the more prominent one of keeper of the Great Seal, which, according to his epitaph, was offered to him. He was sworn in on March 11, 1689; and for the next seven years he administered justice in that court with undiminished reputation. He died of the stone at Exeter on September 7, 1696; and being removed to his mansion at Broadway near Laugharne in Carmarthenshire (an estate which he had purchased of Sir William Russell), he was buried in the church of that parish, where a tablet was erected to his memory with a somewhat

[1] State Trials, xi. 1369; xii. 426; Parl. Hist. v. 311.

fulsome Latin inscription. His son Thomas was created a baronet a short time afterwards, but the dignity became extinct in 1721 on the decease of Sir Herbert, the second baronet, unmarried.[1]

POWELL, JOHN (JUNIOR).

B. E. 1691. JUST. C. P. 1695.

See under the reign of Anne.

POWLE, HENRY.

M. R. 1689.

THE career of Henry Powle was rather that of a politician than of a lawyer. His oratory was oftener heard in the chapel of St. Stephen's than in the courts of Westminster, and he owed his promotion to the office of master of the rolls more to his being a Whig leader than to his prominence at the bar. He was born about the year 1629, and was the younger son of Henry Powle of Shottisbrooke in Berkshire, sheriff of that county in 1632, by Catherine, daughter of Matthew Herbert of Monmouth.

There is no record of the conduct he or his father pursued during the Rebellion: but from his being returned for Cirencester in Gloucestershire to the Convention Parliament of 1660 it may be presumed that he had then taken up his residence at Quenington, situate not many miles from that town, a seat by which he is always described; and that he was known not to be averse from a monarchical government, with a view to the resumption of which that parliament was summoned. In it he seems to have preserved a modest silence; and not to have broken it in the next, in which he represented the same place, till it had sat for nine sessions occupying nearly twelve years. His first appearance, as

[1] Luttrell's Diary, i. 504, 509; Gent. Mag. July 1839, p. 22; The Post Boy, No. 210; Heber's Life of Jeremy Taylor; Burke's Ext. Baronets.

reported, was in February 1673, when in a clear and convincing speech he exposed the tricks played by Lord Chancellor Shaftesbury in issuing writs for the election of members without the speaker's warrant, and procured a vote declaring all the returns under them void. He next by his strenuous opposition succeeded in obtaining the cancelment of the king's declaration of indulgence to dissenters: and from that time he took the lead in getting the Test Act through the house, and in all the other important proceedings of the session. In the remaining seven sessions he continued to be one of the most active heads of the country party in opposition to the court. That parliament, having lasted eighteen years, was brought to a close in January 1679; and to the next, summoned in the following March, he was returned by his old constituency. He distinguished himself in it by the bold stand he made against the king's rejection of the speaker (Seymour); thereby confirming to the commons for the future their right to uncontrolled election; and also by his severe recapitulation of the crimes imputed to the Earl of Danby, thus securing the passing of the act of attainder, which obliged the earl to surrender himself. Noble refers to this session a memorable speech he made. "I will not," he said, "invade prerogative, neither will I consent to the infringement of the least liberty of my country."[1] In this session also some inquiries were made into the money distributed by ministers among the members who supported them for secret service. It is more than probable that neither party were free from contamination; for according to a late discovery several of the leading members of the opposition, and among them Powle himself is named, disgraced themselves by accepting large gratuities from the King of France.

Before the dissolution of this short parliament he was

[1] Noble's Continuation of Granger, i. 150.

taken into the ministry as one of the thirty privy councillors, part Whig and part Tory, to whom by Sir W. Temple's advice the king confided the government. As might be expected from its heterogeneous materials the structure fell to pieces in the following October; and Powle once more returned to the ranks of opposition. There he joined with Shaftesbury in his endeavours to exclude the Duke of York from the throne; and procured a strong declaration against the illegal and arbitrary discharge of the grand jury to avoid their presentment against the duke for recusancy. For this an impeachment was voted against Chief Justice Scroggs, who only avoided the consequence by a lucky dissolution of the parliament and a timely sacrifice of his place. Strongly prejudiced against the Roman Catholics, Powle gave his full belief to the existence of the popish plot: and as a manager for conducting the trial of Lord Stafford he summed up the evidence against him with peculiar severity. In the Oxford parliament of March 1681, which lasted only a week, Powle took very little part: and to the single parliament called by James II. he was not returned.

When that king fled to France and the old parliamentary members were summoned, Mr. Powle was selected as their chairman; and presented the address to the Prince of Orange to take upon him the government till the meeting of the Convention on January 22, 1689. In that Convention, the second in which it was his fortune to have a place, he represented Windsor, and on its first sitting was unanimously chosen speaker. He had the satisfaction in that character of presenting the Declaration of Rights, and of hearing the prince and princess's acknowledgment of them in their acceptance of the crown. In the new arrangement of the judicial bench he received the post of master of the rolls; and was admitted into the privy council. With the disso-

lution in January 1690 his senatorial life terminated, his election for Cirencester in the new parliament being declared void.

He died on November 21, 1692, and was buried in Quenington church, where there is a marble with a flattering inscription to his memory. He married Elizabeth, daughter of the first Lord Newport of High Ercall, who died in 1672. His second wife was Frances, daughter of Lionel Cranfield, first Earl of Middlesex, and widow of Richard Earl of Dorset. By his first marriage he left an only daughter, who married Henry Ireton, Esq.[1]

Powle was a violent partisan in violent times; but he was evidently an honest one. Though his line of conduct cannot always be approved, it is difficult to credit the doubtful imputation of his receiving gratuities from the French king. His speeches bear the impress of sincerity; they were ready, effective, and often eloquent; particularly some of his addresses as speaker. For that office his historical knowledge and parliamentary learning peculiarly qualified him. How far they aided him in the distribution of justice as master of the rolls we have but little means of knowing; but as no complaints have come down to us we may conclude that he performed his duties with efficiency. He was a member of the Royal Society, and an industrious collector of MSS., principally those relating to English history; a great part of which are now in the Lansdowne collection in the British Museum. One of them forms the nucleus of an interesting publication by the Camden Society, entitled "Correspondence of Robert Dudley Earl of Leycester, during his government of the Low Countries in the years 1585 and 1586," under the able and careful editorship of John Bruce, Esq., F.S.A.

[1] Atkyns' Gloucestershire, 322; Manning's Speakers, 389; Townsend's House of Commons, i. 33; Parl. Hist. vols. iv. v.; Collins' Peerage, ii. 169.

POWYS, LITTLETON.

B. E. 1695. JUST. K. B. 1701.

See under the reigns of Anne and George I.

RAWLINSON, WILLIAM.

COM. G. S. 1689.

THE Rawlinsons of Graythwaite near Newby Bridge on the Lake of Windermere are a branch of a family of great eminence and antiquity in Westmoreland and Lancashire, descended from two brothers, Walter and Edward, who shared in the glory of the field of Agincourt. Sir William was born at Graythwaite about 1640, and was the son of Captain William Rawlinson, who for his services in the civil wars had a grant of arms in which three swords were introduced to commemorate the gallantry of himself and his two ancestors. Studying the law at Gray's Inn from 1657 to 1667 he was called to the bar in the latter year, and attained the dignity of the coif in Easter Term 1686. With a fair practice and a good repute he was selected at the Revolution to be third commissioner of the Great Seal, to which he was appointed on March 4, 1689, in conjunction with Sir John Maynard and Sir Anthony Keck. He was at the same time knighted; and when both his colleagues retired in June 1690 he was retained, being then joined with Sir John Trevor and Sir George Hutchins. Luttrell records that in November he was heard in the House of Lords against the Bill for the regulation of the Court of Chancery. He sat under this commission for three years; when, in March 1693, the Seal was delivered to Sir John Somers as sole keeper. King William wished on his removal to make him chief baron of the Exchequer, but the lord keeper objecting that it was necessary the chief judge of that court "should be experienced in the course of the Exchequer and knowing

in the common law,"—thus inferring his ignorance of both,—his appointment was not insisted on,[1] and Sir William returned to the bar, where we find him pleading as a serjeant for the Duke of Devonshire in October 1697. He died on May 11, 1703, and was buried in Hendon church, Middlesex, where on his monument is his recumbent figure as large as life attired in robes. His descendants still flourish at Graythwaite.[2]

ROKEBY, THOMAS.

JUST. C. P. 1689. JUST. K. B. 1695.

As the knightly deeds of the house of Rokeby, illustrious both in council and in camp, have been fully recorded in ancient annals and modern verse, the legal honours by which the family was distinguished ought not to be forgotten. Sir Thomas Rokeby was lord justice of Ireland in the reign of Edward III.; William Rokeby, archbishop of Dublin, was lord chancellor of that kingdom under Henry VII. and VIII.; Dr. John Rokeby, a famous civilian, became vicar-general of the province of York in the reign of the latter king; Ralph Rokeby by his eminence as a lawyer received the dignity of the coif from Edward VI.; and Thomas Rokeby, whose career is now to be traced, was elevated to the English bench in the reign of William and Mary.

The Rokebys were a very prolific race, and the family was multiplied into numerous branches, most of whom settled in various parts of Yorkshire. William Rokeby of Skiers was honoured in 1661 with a baronetcy, which became extinct in 1678; and his brother Thomas Rokeby of Barnby, after having had eleven children by Elizabeth, sister of Sir William Bury of Grantham, was killed at the battle of

[1] Lord Campbell (Chancellors, iv. 122) erroneously says that the patent was made out.

[2] Burke's Land. Gent. s. 273; Luttrell, ii. 128; iv. 298; Lyson's London, iii. 8.

Dunbar in 1650. Thomas, the future judge, was the second of his sons. Born about 1632, he was admitted a pensioner of Catherine College in the University of Cambridge in June 1646, and took the degree of B.A. in January 1650, becoming a fellow of his college at the following Christmas. Towards its new buildings in 1674 he contributed 20*l.*, and bound himself to pay 5*l.* a year during his life towards the discharge of certain annuities to persons who had advanced money for the completion of the works. He qualified himself for legal honours at Gray's Inn, becoming a student there in May 1650, and being called to the bar in June 1657.

When not engaged in term, he took up his residence at York, where his mother lived, and engrossed much of the practice of that and the neighbouring counties; being the chief adviser of the Puritans of the north, to whose religious opinions he was a zealous and consistent supporter. He seems to have been in some way connected with the court of Cromwell, for he himself relates (as Dr. Henry Sampson records in his Diary) that he was present when the Duke of Crequi was received by Cromwell at the Banqueting House as ambassador from the French King, and delivered a letter to him superscribed "To his most Serene Highness Oliver, Lord Protector of England, France, and Ireland." Cromwell looking at the address turned upon his heel, and put the letter in his pocket without reading it. The indignant ambassador, on inquiring the cause of this insult, found that the offence was that the letter was not directed "To our dear Brother, Oliver;" on hearing which the great Louis felt it expedient to comply.[1]

Beyond his forensic labours, and his being elected an ancient of his inn in 1676, we hear nothing of Rokeby in the reigns of Charles II. and James II., except that in the last

[1] Gent. Mag. April, 1851, p. 386.

months of the latter's reign he took an important part in the great movement at York in favour of the Prince of Orange. His known principles, his high character, and probably a desire to conciliate the Presbyterian party, pointed him out for selection as one of the first judges at the Revolution. He was accordingly placed in the Common Pleas on May 8, 1689, having four days before been sworn serjeant, when he and the others then appointed chose for their rings the appropriate motto "Veniundo restituit rem." He received the honour of knighthood on the 30th of the following October. After sitting for six years and a half in the Common Pleas he was removed on October 29, 1695, to the King's Bench; where he remained till his death. This event occurred on November 26, 1699, at his lodging in Serjeants' Inn, Fleet Street, where he and his wife had resided since he became a judge. His body was removed for interment to Sandal near Doncaster, where a sumptuous monument was erected to his memory in the chapel of Archbishop Rokeby.

His excellence as a man, his piety as a Christian, and his uprightness as a judge, are exemplified not only by his diary and the correspondence which have come down to us, but by his adoption for his guidance of the beautiful rules laid down by Sir Matthew Hale on his assuming the judicial office. He married Ursula, daughter of James Danby of New Building (formerly Kirby Knowle Castle) near Thirsk, who survived him till 1707, but brought him no issue.[1]

SIMPSON, WILLIAM.

CURS. B. E. 1697.

See under the reigns of Anne and George I.

[1] Memoir of Judge Rokeby, 38, 56, in Surtees Soc. Public. for 1860; Luttrell, i. 529; iii. 543; iv. 587; Williams's Life of Hale, 365.

SOMERS, JOHN, LORD SOMERS.

LORD KEEPER, 1693. LORD CHANC. 1697.

IT has been too much the practice of party writers, in the absence of other objections, to endeavour to depreciate their antagonists by allusions to their low birth. When Dean Swift, following the vulgar example, said that Somers "sprang from the dregs of the people," he not only disregarded truth, but failed to reflect how nearly, if true as to Somers, the assertion might be applied to himself. Swift's grandfather was the vicar of a country parish; Somers's grandfather was the possessor of considerable landed property which had belonged to his family for many generations. Swift's father was an Irish attorney of no eminence, and he himself almost a child of charity; Somers's father was a member of the same profession, in extensive practice, farming his own estate, and affording to his son the best of educations. The imputation therefore comes with peculiarly bad grace from Swift: but, be it true or false, it will have no influence on unprejudiced minds; or if it operates at all it will be to the advantage of the object of it, telling rather to his credit than to his dishonour. Few will deny that the man, who has raised himself by his own merits, has more true nobility than one who can only boast an unimpeachable pedigree.

No means exist of tracing whether the ancestors of the great lord chancellor were allied with Henry Somer, who has been noticed in the fourth volume of this work as a baron, and afterwards chancellor, of the Exchequer in the reign of Henry IV.; but this family originally spelling their name Somer would seem to give probability to the connection. Subsequently it was changed to Sommers, often written Somẽrs with a circumflex over the m, denoting the

double letter. By degrees the circumflex was omitted, and the modern method of writing the name adopted.

The father of Lord Somers was John Somers, a respectable attorney practising at Worcester, who, disclaiming the devoted loyalty of most of the inhabitants of that city, had taken arms during the civil war on the side of the parliament, and commanded a troop of horse in Cromwell's army. So zealous a partisan was he, that while attending divine service at Severnstoke, near which he was quartered, he is said to have once fired a pistol over the head of the clergyman, a furious loyalist, who was haranguing his congregation with violent invectives against the opposite party. The shot, which was meant to caution, not to injure, the indiscreet minister, whom he had frequently warned, lodged in the sounding-board of the pulpit, where its mark is still pointed out. When he performed this foolish feat he was still a young man, for his marriage with Catherine Ceavern, of a good Shropshire family, did not take place till November 1648; when his father settled the family estate of Severnstoke upon him. On the termination of the civil war with the battle of Worcester, fought on September 3, 1651, Mr. Somers returned to that city, and commenced or resumed his practice as an attorney; for it is uncertain whether he had actually entered the profession before he had adopted the military life. He soon established a very profitable business in settling the deranged affairs of those who had suffered in the late disturbances, and in superintending the estates of the Earls of Shrewsbury; at the same time engaging in the clothing trade, then a staple employment of his county; and also in brick making, a profitable speculation at a time when his city required extensive repairs and rebuilding. At the Restoration he followed the example of others who had been implicated in the rebellion, by suing out a full pardon for all offences he had committed; and, with an excellent character

for integrity and charity, he died in January 1681, nearly five years after his son was called to the bar.

The biographers of the chancellor all concur in stating that he was born in the mansion of White Ladies, the remains of an ancient nunnery in the parish of Cluines, contiguous to the city of Worcester, which had been held sacred and left uninjured by both parties in the convulsions of the times. It was then occupied by Mr. Blurton, the husband of the chancellor's aunt, on whom it had been settled by her father as a marriage portion; and Mrs. Somers is represented as retiring to this mansion as a safe retreat, to await her accouchement of her second child, the future chancellor, with whom she was then pregnant. It turns out, however, that this account is totally incorrect. He was born in the city itself; the house is shown in which his father then resided, and the register of the parish of St. Michael's, which is close to the cathedral and nearly a mile from the White Ladies, records his birth there, on March 4, 1650-1. As the battle of Worcester was not fought till September 1651, Mrs. Somers must have retired there after the birth of her child; and King Charles, whose last resort it was before his escape, must have found the boy six months old.

Young Somers was brought up under the care of his aunt at the house of White Ladies, which was his home till he went to the university. The rudiments of his education he received partly at the college school in Worcester, and partly at private schools at Walsall in Staffordshire and at Sheriff-Hales in Shropshire. While at the school at Worcester he regularly dieted with his father, at whose country house at Clifton in Severnstoke he also spent his summer vacations. At this period of his life he showed little inclination for the amusements of boyhood, seldom joining in the games of his schoolfellows, and more often to be seen with a book in his hand.[1] His early biographers fix his entrance into Trinity

[1] Seward's Anecdotes, ii. 112.

College, Oxford, so late as the year 1674, when he was twenty-two or twenty-three years of age; and consequently find a difficulty in accounting for his time in the interval between this date and his leaving school. Subsequent inquiry has removed the difficulty, by showing that he was matriculated on March 23, 1667, at the age of 16[1]; and the books of the Middle Temple record his admission into that society on May 24, 1669. The eminence to which he attained in his future career both in literature and in law sufficiently prove how industriously he must have employed the years he spent in each of these seminaries. In the former he continued occasionally to reside till 1682, though he did not aspire to any academical honour nor even take a degree; and by the latter he was called to the bar on May 6, 1676.

While his father lived, he retired in the vacations to White Ladies, where in 1672 Charles, Earl (afterwards Duke) of Shrewsbury, then a boy of eleven or twelve years old, came to reside. Between him and Somers was then formed a close intimacy which lasted throughout their lives; the young lawyer benefiting by the society to which his noble friend introduced him, and the young earl profiting by the wise and constitutional lessons which he insensibly imbibed from the conversation and conduct of his more staid companion. The total want of any authentic particulars of his occupations or course of study during these years some of his biographers, regardless of date or probability, have supplied by minute details that exhibit more of fancy than ingenuity. The story that he held a desk in his father's office, by which they attempt to fill up the supposed interval, is refuted by the fact that he was sent at sixteen to the university, and that he was entered two years after as a student in an inn of court; and is rendered still more improbable by their making him at the same time clerk to Sir Francis Winnington. This

[1] Lord Campbell's Chancellors, iv. 56.

honest lawyer and statesman was a native of Worcester and a friend of Somers's father. In his chambers young Somers was doubtless at one time a pupil; but as Sir Francis was removed from his office of solicitor-general in 1679, and was not elected member for Worcester till that year, it seems likely that his then joining the party in opposition to the court was the commencement or the increase of the intimacy between the families. Young Somers at that time had been for three years called to the bar, and there can be no doubt that Sir Francis's countenance and advice greatly assisted him in his professional pursuits.

The political principles of Somers were already known, from his association with the leaders of the liberal party; and his talents were soon recognised by the use they made of his pen. Within the next two years several pamphlets, both legal and political, appeared, of which, though published without his name and never publicly acknowledged, he was then believed, and has since been proved, to have been the author. Their ability and power at once marked him as an opponent of the court, and no doubt, during the remainder of Charles's reign, and the whole of James's, prevented the promotion in his profession which his talents would have otherwise commanded. His reputation among his legal companions, as a staunch advocate of popular principles at this early period, is exemplified by a curious scene which Narcissus Luttrell, under the date of June 16, 1681, thus describes:—

"An address of thanks to the king for his late declaration [with his reasons for dissolving the last two parliaments] moved in the Middle Temple, where several Templars meeting began to debate it, but they were opposed till the Hall began to fill; and then the addressers called out for Mr. Montague to take the chair; those against it called for Mr. Sommers; on which a poll was demanded, but the

addressers refused it, and carried Mr. Montague and sett him in the chair, and the other party pulled him out; on which high words grew, and some blows were given; but the addressers seeing they could do no good in the Hall adjourned to the Divill tavern, and there signed the addresse; the other party kept in the hall, and fell to protesting against such illegal and arbitrary proceedings, &c., and presented the same to the bench as a grievance."

The tracts the reputation of which had raised Somers's fame among his brother Templars were "A History of the Succession," published during the discussion of the Exclusion Bill in 1679 and 1680; and "A just and modest Vindication of the Proceedings of the two last Parliaments," written in answer to the king's declaration of April 8, 1681, on the dissolution of the Oxford parliament. To the latter Algernon Sidney and Sir William Jones contributed, but it was principally composed by Somers. Subsequently appeared "The memorable case of Denzil Onslow" tried at Kingston in July 1681, in which the rights of electors were supported; and "The security of Englishmen's Lives, or the Trust, Power and Duty of Grand Juries in England," in which the privileges of that important body were defended. The latter arose from the abuse vented against the grand jury which refused to find the bill of indictment against the Earl of Shaftesbury in November 1681, and passed at the time as written by the Earl of Essex, but was afterwards known to be the production of Somers.[1] Classical subjects also employed his pen; and some translations from Ovid which he produced are elegant samples of his poetical powers. "Dryden's Satire to his Muse," occasioned by the "Absolon and Achitophel" of that poet, though often given to Somers, could not have been wholly his. Mr. Cooksey considers it as the joint production of him and

[1] Burnet, ii. 276, 290; State Trials, xiv. 707, note.

Lord Shrewsbury; and it may possibly have been so, parts of the poem being too coarse for the polished lawyer, and parts too well balanced for the free and easy earl. To their united genius also, Mr. Cooksey attributes the original conception of "The Tale of a Tub," which Swift, with their permission, afterwards (in 1704) published as his own. The evidence adduced, however, will not be considered sufficient to disprove the Dean's authorship; but the biographer, had he been aware of the following incident, would doubtless have pressed it into his service, as a remarkable coincidence confirmatory of his argument, and would have quoted it as suggesting to the young lawyer a title to the amusing tale he was then engaged in sketching. On the trial of Sheriff Pilkington and others in May 1683 for a riot, Somers, who was one of the counsel for the defendants, challenged the array, and Serjeant (afterward chief justice) Jeffreys, upon the challenge being read, called out "Here's a Tale of a Tub indeed!"[1]

It is manifest that Somers must have had some business in the courts long previous to that trial, if the anecdote be true of his being engaged in a case before Lord Nottingham. He is stated to have been the junior of several counsel employed in it, and that on rising after them he said that "he would not take up his lordship's time by repeating what had been so well urged by the gentlemen who went before him:" to which the lord chancellor replied, "Pray go on, sir, I sit in this place to hear everybody; you never repeat, nor will you take up my time, and therefore I shall listen to you with pleasure." Lord Nottingham died in December 1682, having been for many months before confined by illness; and could not have made such a reply, unless he had had several previous opportunities of noticing Somers's talents as an advocate. By his general demeanour and his acknowledged

[1] Cooksey's Life, 18, 23; State Trials, ix. 226.

abilities, added to his noble associates, he acquired very early such a deference and respect as even to overawe his father. A story is told that the old gentleman was in the habit of panegyrising his hopeful son to the landlord of the George at Acton, where he was accustomed to leave his horse on his visits to London; and that, the landlord wishing to see this prodigy, old Mr. Somers brought him, giving his host this previous caution, "But, Cobbett, you must not talk to him as you do to me; he will not suffer such fellows as you in his company!"[1] As his father died in January 1681, it must naturally be inferred that Somers had already gained some distinction in the courts.

During the next few years he industriously pursued his profession, and with such success that his fees amounted to 700*l.* a year. With such a proof of business, added to his political associates and literary reputation, it seems unaccountable that Sir Henry Pollexfen should have found any difficulty in inducing the seven bishops to employ him for their defence, or that they should have objected that he was too young and obscure,—he being then in his thirty-eighth year, and one of the "consiliarii" of the dean and chapter of Worcester. Pollexfen's threat to withdraw unless Somers was engaged was effectual, and the bishops had every reason to be grateful for his pertinacity, as Somers's assistance contributed in a considerable degree to secure the triumphant result, which was hailed with so much delight by all ranks of people. So greatly was his popularity increased, that when James, frightened at the threatened approach of the Prince of Orange, restored the charters to the city of London, the citizens elected Somers their recorder on October 23, 1688, an office which he respectfully declined; anticipating no doubt the prince's perseverance, notwithstanding

[1] Woolrych's Judge Jeffreys, 167; Life (1716), p. 10.

the dispersion of his invading fleet a few days before.[1] To the Convention Parliament summoned by the prince for the following January, Somers was returned as the representative of his native city. In it he acted a most conspicuous part. Appointed one of the managers of the conference with the lords upon the word "abdicated," he learnedly justified the vote of the Commons, and induced the lords to agree with the resolution. As chairman of the committee to whom the Declaration of Rights was referred, that valuable charter of England's liberties owes much of its excellence to his judgment and care;—and to his temperance, caution, and foresight the country is mainly indebted for the happy settlement that was then secured, and for the freedom it now enjoys.

In the re-establishment of the legal courts, and the appointment of the new officers, the claims of Somers were sure not to be overlooked. In May 1689 he was named solicitor-general, and was knighted in the following October, having been elected bencher of his inn on May 10. During the remainder of this parliament he entered actively into all the important debates, and by his effective services in this critical time he gained a great ascendency in the counsels of the state. In 1690 he was elected recorder of Gloucester, and in the next parliament, meeting in March of that year, he sat again for Worcester, and pursued the same course, ably defending the principles of the Revolution, and carefully guarding the liberty of the subject. When this parliament had sat three sessions Somers received in May 1692 the office of attorney-general, vacated by the promotion of Sir George Treby to the chief justiceship of the Common Pleas. The state trials contain only three cases in which he was engaged in either of his official capacities;—viz. on the prosecution of Lord Preston and others for high treason in

[1] State Trials, xii. 317; City List of Recorders.

1691; as counsel for the Duke of Norfolk in 1692 against Germain in an action for *crim. con.*; and against Lord Mohun in an indictment for murder. Within a year he was removed to a more responsible station. Upon a change in the ministry the Great Seal was taken out of the hands of the commissioners, and offered to Sir John Somers, who, after attempting to decline it for some time, was at last induced to accept the charge as lord keeper on March 23, 1693, with a pension of 4000*l.* a year. On his elevation he took up his residence in Powis House, Lincoln's Inn Fields.

Scarcely was he seated in his office, ere he experienced one of its troubles, in a contest with his sovereign about the recommendation of judges and law officers. The king having named Sir William Rawlinson as lord chief baron on the expected resignation of Sir Robert Atkyns, and Sir Edward Ward as attorney-general, without consulting him, Somers respectfully remonstrated, pointing out the inconvenience of not following the usual custom, by which the advice of the holder of the Great Seal was always taken as to the disposal of these offices; and giving his reasons against the two nominees.[1] The question was accommodated by mutual concession; the king giving up the chief barony, and Somers withdrawing his opposition to the attorney-general. King William left England at the end of the month, and remained abroad till November; when, on the meeting of the parliament, the new lord keeper not being yet a peer sat (as in its future sessions) a silent speaker of the House of Lords. On its prorogation in May 1695, after the queen's death, the king proceeded to his customary campaign in Flanders, leaving Somers as lord keeper one of the lords justices for the administration of the government during his absence;—a position which he occupied in all the future years in which he held the Great Seal. In the next session the ruinous

[1] Lord Campbell's Chancellors, iv. 120; See note, ante, p. 345.

depreciation of the coin by clipping and sweating was brought under consideration; and the remedy boldly proposed by Somers and Montagu, with the advice and assistance of Locke and Newton, was adopted, by which the currency was restored to a healthy state. On April 22, 1697, his title of lord keeper was changed to that of lord chancellor; and in December, though he had several times previously refused a peerage, he was created Baron Somers of Evesham;—at the same time receiving from the king for the support of his honours some considerable grants, among which were the manors of Reigate and Hawleigh in Surrey. A new parliament was called at the end of the following year, which only sat till April, 1700. In its last session the Tories, having obtained a great ascendency, assailed the ministry, and directed their principal attack against Lord Somers, as having the greatest influence over the king and forming the strongest barrier to their acquisition of power. So high ran party rage, that a motion was made for an address to remove him from his majesty's presence and councils for ever. Though this, as were two other motions levelled against him, was negatived by a large majority, the king, desirous of trying the effect of a complete change in his ministry, recommended Lord Somers to resign; but his lordship, disdaining to quail before his enemies, declined to take this course; and at length the king sent him an order to deliver up the Seal, which he immediately obeyed on the 17th of April.

Thus, though still possessing the confidence of the king, was Lord Somers by the malice of faction (for the term may be applicable to either party) dismissed from an office which he had held for seven years with the most unimpeachable integrity; preserving in the performance of its duties the high reputation he had previously gained, administering justice with inflexible impartiality, and establishing for himself a name, among lawyers for his capacity as a judge, and

among statesmen for his ability as a legislator, which has lived in honour to the present day, and which even those who differ from him in politics do not venture to sully. So anxious was he to form correct opinions on the questions that came before him, that he is said to have expended many hundred pounds in the purchase of books to prepare his famous judgment in the bankers' case;—the reversal of which by the House of Lords, just before his dismissal, arose, it is believed, more from a sense of compassion for the individuals interested, joined with the spirit of party, than from a consideration of the legal points on which it turned. His decisions in Chancery are reported by Vernon and Peere Williams; and there are two state trials on which he presided as lord high steward while he held the Seal, one of Lord Warwick, and the other of Lord Mohun, both for murder; the former of whom was found guilty of manslaughter, and the latter was a second time acquitted. So deep was the admiration of his ability among the lawyers, and so great their hesitation to risk a comparison with him, that King William found a difficulty in procuring a successor; many eminent members of the legal body refusing to accept the offer of the Seal.

But Lord Somers had still another ordeal to undergo. The Tories, now being admitted into power, renewed their attack upon him in the next parliament which met in February, 1701. On April 1 they carried a vote, by the small majority of ten, that "by advising his majesty in the year 1698 to the Treaty of Partition of the Spanish monarchy whereby large territories were to be delivered up to France," he was "guilty of a high crime and misdemeanor;" and thereupon they sent up to the House of Lords an impeachment against him;—together with Lords Portland, Orford, and Halifax, against whom they had passed similar votes. The articles against Lord Somers, which were not

presented till May 19, were fourteen in number, six of which had reference to the Partition Treaty; five were charges of obtaining extraordinary grants for his own benefit; another, that he granted a commission to the famous pirate William Kidd of the Adventure galley, with a view of participating in the spoils to be obtained thereby; and lastly, a general one imputing maladministration in his court, by delaying and making illegal orders in the causes before him. To these charges he gave full and satisfactory answers five days after they were delivered. A dispute then arose between the two houses as to the order and time of proceeding, which was aggravated by some bitter truths uttered by Lord Haversham at a free conference. The commons took advantage of these to refuse to appear at the trial, which was fixed for June 17, on which day the lords, in consequence of the absence of all evidence in support of the charges, acquitted Lord Somers and dismissed the impeachment. The same course was afterwards taken on the trial of Lord Orford; and the impeachments against the other Lords were dismissed at the close of the session, no articles being exhibited against them. The whole of these proceedings were prompted by party animosity, and it seems evident that the accusers had no real intention of bringing the lords to trial, and got up the disagreement with the other house as a pretext for not proceeding in the business. To put an end to these heats the king first prorogued and then dissolved the parliament; calling another to meet in December 1701. In the interim a plan was formed by Sunderland to restore the Seal to Somers, who, though he held no ostensible place in the ministry, is supposed to have assisted in framing the king's speech on the opening of the new parliament. This speech, in consequence of the recent recognition by the King of France of the son of James II. as successor to the throne of England, was rapturously welcomed by the people as

highly spirited and patriotic, and was the more valued as it was the last which William addressed to parliament; his death occurring on the 8th of the following March. To his last moments he continued his friendship for Lord Somers, and had so complete a confidence in him that he was privately engaged with him in reconstructing the Whig ministry when his decease confirmed the Tories in power.

During the first six years of the reign of Queen Anne, to whom Somers was personally obnoxious, he confined himself to his duties as a peer of parliament. He carried a bill for the amendment of the law; he laid the foundation of improvements in the introduction of private bills; he greatly assisted in passing the Regency Bill, which provided for the Hanoverian succession; he took an active part in promoting the union with Scotland, the scheme of which he had projected in the previous reign, and one of the managers of which he was now appointed; and from his pen proceeded most of the important papers of the time. The prejudices of the queen were in some measure softened in 1705, and on the death of her husband, Somers was in November, 1708, again taken into the ministry as lord president of the council, an office which he held for two years, when on another change it was given to the Earl of Rochester. Though the queen dismissed him with the rest of the Whigs, she professed great regard for him and declared that she could always trust him, for he had never deceived her. She died in August 1714, and for the two years that he survived in the reign of George I., though his friends were restored to power, and he had a place in the cabinet without office, he took no public share in business, being gradually incapacitated by a paralytic affection, which at last reduced him to a state of imbecility. He died on April 26, 1716, and was buried at Mimms in Hertfordshire, in which parish his country residence, called Brockman's, was situate.

As the leader of a great party Lord Somers's character among his contemporaries was as much assailed by his opponents, as it was lauded by his supporters; the estimate of each being possibly greatly exaggerated. But the same individual is very rarely to be found in the ranks both of extollers and detractors, who is so indiscreet as to leave a public record of his contradictory judgments. Dean Swift was not ashamed to be guilty of this. In his "Discourse of the contests and dissensions between the Nobles and Commons in Athens and Rome," written while he was united with the Whig party, he represents Lord Somers, under the character of Aristides, as a person of the strictest justice, and as having performed such mighty service to his country, that to his recall to power the state would owe its preservation. His "History of the last years of the Queen," published when he was connected with the Tories, is written in a directly contrary spirit, depreciating the services his lordship had performed, imputing selfish motives to all his actions, and disparaging all the good qualities attributed to him. Addison's noble character of Somers in the "Freeholder," written soon after his death, affords a picture which, though somewhat too strongly coloured to suit all opinions, is recognised in the present day, even by those of different politics, as forming a just and fair representation. The truest estimate of a man's character is made by those who come after him and are not influenced by personal partialities or prejudices; and Somers's learning and judgment, his honesty, his eloquence, his modesty, mildness, candour, and taste, together with his sweetness of temper, have been acknowledged by all modern authors of whose writings he has been the subject. He was elected president of the Royal Society in 1698 and resigned it in 1703 in favour of Sir Isaac Newton; and among the men of literature and science whom he honoured with his patronage were Newton,

Locke, Addison, and Bayle. The encouragement he extended to the publication of that valuable collection of state papers called "Rymer's Fœdera," and also to that excellent history of the Exchequer by Madox, justifies the latter author in placing him in the upper ranks of the lovers of antiquity, and in celebrating in his "Prefatory Epistle" the public benefit he conferred on the nation by the care of its repositories and the preservation of its records.

As he never married his title became extinct; but was revived in 1784 in the person of Sir Charles Cocks, Bart., the grandson of his sister Mary. The name still graces the House of Lords, with the additional title of an earl, granted in 1821.[1] He left a fine and well-assorted library, which was divided between Sir Joseph Jekyll, master of the rolls, who married his sister Elizabeth, and his nephew Sir Philip Yorke (afterwards Earl of Hardwicke), containing a valuable collection of tracts and manuscripts. A selection of the former was published in 1795 under the name of the Somers tracts in sixteen volumes, and again in 1809 in twelve volumes, edited by Sir Walter Scott. The manuscripts, which originally filled sixty quarto volumes, were unfortunately destroyed in an accidental fire in Lincoln's Inn in 1752, which consumed the chambers of the Hon. Charles Yorke, where they were deposited. A few fragments were preserved from the flames, and were published by the Earl of Hardwicke in 1778.

TRACY, ROBERT.

B. E. 1700.

See under the reigns of Anne and George I.

[1] Life of Lord Somers, 1716; also Lives by Cooksey, Maddock, Roscoe, in Chalmers' Biog. Dict., in Library of Useful Knowledge, and in Townsend's House of Commons.

TREBY, GEORGE.

CH. C. P. 1692. COM. G. S. 1700.

GEORGE TREBY was the son of Peter Treby, a respectable gentleman of Plympton in Devonshire, by his wife Joan, daughter of John Snellings of Chaddlewood, Esq. He was born in 1644 and was placed by his father as a fellow-commoner at Exeter College, Oxford, in 1661; but being intended for the legal profession he left the university without a degree, and was entered of the Middle Temple in 1663. Having been called to the bar in 1671, he was soon regarded as a rising man; and was chosen as representative for his native town in both the parliaments of 1679, in the latter of which he acted as chairman of the committee of secrecy relative to the popish plot; and was selected as one of the managers to conduct the impeachment of Lord Strafford as a participator in it. On the surrender by Sir George Jeffreys of the recordership of London Mr. Treby was elected in his place in December 1680, and was knighted in the following month, when he was also made a bencher of his inn. When the city charters were attacked by the *quo warranto* two years afterwards he stood up boldly and ably in their defence; and of course was removed from his place when judgment was given against them to make way for the court favourite, Sir Thomas Jenner.[1] He sat in the last parliament of Charles II., which, meeting at Oxford, was allowed to continue its deliberations for no more than a week in March 1681; and from the single parliament called by James II. he was excluded.

Refusing to give countenance to that king's claim to dispense with the penal laws, he declined to plead for the plaintiff in the sham action brought by Sir Edward Hale's coachman against his master; and was naturally, both for

[1] Middle Temple Books; State Trials, vii. 1308; viii. 1099.

his legal ability and his known liberality, selected as one of the counsel to defend the seven bishops. When the king, alarmed by the threatened approach of the Prince of Orange, deemed it prudent to restore the city's charters, Sir George was requested to resume his office of recorder, but for two months declined to do so; until on the prince's arrival he was induced to consent. He took his seat on December 10, 1688, and four days after delivered an address of congratulation to the prince which was the subject of general admiration.[1] To the Convention Parliament in the following month he was returned by his old constituency of Plympton.

In the early discussions of that parliament he took a leading part in proposing, and in the conference with the peers in supporting, the resolution declaring the abdication of the king. On some symptoms of mutiny in the army, he advised the house not to waste their time in discussions, but at once to oppose force with force. When Sir Henry Pollexfen was appointed attorney-general in February 1689, Treby was made solicitor; but succeeded to the former post in May, on Sir Henry's elevation to the bench of the Common Pleas. The town of Plympton returned him again to William's second parliament of March 1690; and he was still a member of it when he was constituted on May 3, 1692, lord chief justice of the Common Pleas, in the place of Sir Henry Pollexfen, who died in the preceding year. At this time he resigned the recordership of London, which he had, contrary to the usual practice, continued to hold notwithstanding his official position; and he was complimented by the common council with a present of one hundred guineas.[2] In one of his earliest state trials, that of Anderson for high treason as printer of two seditious libels in 1693, he seems to have exhibited some of the leaven of the old time: but in all the

[1] Luttrell's Diary, i. 380, 446; Noble's Contin. of Granger.

[2] Parl. Hist. iv. 40, 78, 180, &c.; City List of Recorders; Luttrell, i. 506, 522.

others that are recorded he acted with fairness and impartiality. In November 1698 he was made a governor of the Charter House; and in 1700 he held the Great Seal with his two brother chiefs, from May 5 to 21, the interval between the removal of Lord Somers and the nomination of Sir Nathan Wright. Seven months afterwards his career was terminated at the age of fifty-six by his death on December 13, at his house in Kensington Gravel Pits. He was buried in the Temple Church.[1]

His excellence as a lawyer is universally admitted; and his various arguments on the question of monopolies, in defence of the city charters, and in the bankers' case (in which he differed from his colleagues), sufficiently attest the extent of his learning. His high character as a judge, besides being lauded by Evelyn, receives the best confirmation from the following lines in an ode on his death:—

> "Great without pride, and without wrinkles wise,
> Obliging without art, and just without disguise,
> Wise in his counsels, humble in discourse,
> Good without noise, and pleasant without force,
> Easy of access, willing to bestow,
> Regarded virtue, and forgot his foe."[2]

He wrote the annotations in the margin of Dyer's reports; and was the author of several occasional pamphlets.

His first wife was Dorothy Westcott; his second, Dorothy daughter of Ralph Grange, Esq., of the Temple; and his third Mrs. Brindley, who brought him a fortune of 10,000*l*. His eldest son by his first wife became secretary at war, and his grandson, master of the household to George II. and a lord of the treasury. The family still survives, and resides at Plympton House, built by the chief justice's son.[3]

[1] State Trials, xii. 1248; Luttrell, iv. 446; 1 Lord Raymond, 566, 627.

[2] Evelyn, iii. 386; State Poems (ed. 1703), iv. 365.

[3] Wood's Athenæ Oxon. iv. 499; Noble's Cont. of Granger, ii. 166; Burke's Landed Gent. 1425; Reg. St. Giles' in the Fields; Luttrell, iii. 11.

TREVOR, JOHN.

Com. G. S. 1690. M. R. 1692.

See under the reigns of James II., Anne, and George I.

TREVOR, THOMAS, Lord Trevor.

Ch. C. P. 1701.

See under the reigns of Anne and George I.

TURTON, JOHN.

B. E. 1689. Just. K. B. 1696.

See under the reign of Anne.

VENTRIS, PEYTON.

Just. C. P. 1689.

The family of Ventris is probably of foreign origin, but can be traced in England for at least three centuries; when it became divided into two branches established respectively in the counties of Bedford and Cambridge. Sir Francis Ventris of Campton was sheriff of Bedfordshire under James I., and his son, Sir Charles, was made a knight banneret for his valour in the civil wars of the next reign, and narrowly escaped assassination by a party of Cromwellites in 1645. The immediate ancestors of the judge belonged to the Cambridgeshire branch. One of them was representative in parliament for the borough of Cambridge in the reign of Philip and Mary, and its mayor in that of Elizabeth. He and his descendants possessed considerable property in the county, and were connected in marriage with the Evelyns, the Brewes, the Holts, and other distinguished families. Edward Ventris, the senator's great-grandson, inherited from his father the manor of Granhams in Great Shelford and the rectory of Stow Quy in that county, together with other estates in Suffolk and Essex. He was a barrister of Gray's Inn, and died in 1649 at the age of

thirty, leaving, by his wife Mary daughter of Sir John Breuse of Wenham Hall in Suffolk, four children, the eldest survivor of whom was the future judge, then under four years old.[1]

Peyton Ventris was born in November 1645 at Wenham, the seat of his maternal grandfather. From the vicinity of Great Shelford to Cambridge it is most probable that he matriculated at that university. If he did, it is certain that he left it without taking a degree; and being destined to his father's profession, entered the society of the Middle Temple on February 3, 1653 [4?]. After passing there rather more than the usual curriculum of seven years, he was called to the bar on June 2, 1661. That he was a diligent student, and a competent master, of the intricacies of his profession, he gave early proof by commencing in 1668 his reports of cases adjudged in the King's Bench and Common Pleas. These he continued during the rest of the reign of Charles II., and in part of that of James II.; and in the reign of William and Mary he recorded those in his own court as long as he sat there as judge. They were first published after his death, and in the customary allowance of the publication all the judges expressed their "knowledge of the great learning and judgment of the author." The editor also refers to his eminence in the profession and his great worth; and the high reputation of the work is evidenced by the demand of no less than four editions in thirty years.

As a constitutional lawyer he could not but be disgusted with the recent encroachments of the crown, nor fail to rejoice at the prospect of the beneficial change which the arrival of the Prince of Orange opened. He secured a seat in the Convention Parliament for Ipswich, after a contest in which he beat his opponent by a majority of nearly three to one: but sat there only four months, his distinguished legal

[1] Ex. inf. the Rev. Edward Ventris, of Cambridge.

character, added to his known anti-papistical tendencies, immediately recommending him for a judicial station. Having been called to the degree of the coif in April 1689 in preparation for his assuming the ermine, he was constituted a judge of the Common Pleas on May 4, and was knighted in the following October. The honourable estimation in which his character is regarded, although he graced the bench for less than two years, is the best proof of the excellence and efficiency with which he performed the responsible duties of his office. His phraseology on the bench was rather familiar. On a question whether a devisee in fee could disclaim the estate devised, he said that "a man cannot have an estate put into him in spite of his teeth."

He died on April 6, 1691, at Ipswich, and was buried in the church of St. Nicholas there. By his wife Margaret, daughter and co-heiress of Henry Whiting, Esq., of Coggeshall in Essex, who survived him, he left several children, one of whom held the post of master of the King's Bench. Some members of the original stock still survive, and to the kind information of the Rev. Edward Ventris, incumbent of Stow Quy, the present representative of both branches of the family, who possesses the original portrait of the judge by Riley, I owe many of the particulars here recorded.[1]

WALLOP, RICHARD.

CURS. B. E. 1696.

RICHARD WALLOP belonged to the Hampshire family which was ennobled in the next century with the earldom of Portsmouth, being a descendant of the third son of Sir Oliver Wallop, whose eldest son was the lineal ancestor of John Wallop, on whom George I. conferred the title. His branch

[1] Luttrell's Diary, i. 529, 598; ii. 205; Parl. Hist. v. 29.

was settled at Bugbroke in Northamptonshire, and his father, Richard, was resident in that place, when he was admitted at the Middle Temple in February 1638. He was called to the bar in February 1646, and was elected a bencher in the same month in 1666.[1] Though not mentioned by the reporters till 1661, his future success in his profession may be estimated by the numerous state trials in which he was engaged; and his political tendencies are apparent from his being generally retained against the government during the reigns of Charles II. and James II. In 1680 he was leading counsel for Lord Stafford, one of the five popish lords. In 1681 he was selected as counsel for the Duke of York on the indictment for recusancy; and was assigned to argue points of law in defence of Edward Fitzharris, and of Stephen Colledge. In 1682 he assisted in defending the city of London against the Quo Warranto; and was engaged as counsel for the Earl of Danby. He was peculiarly obnoxious to Chief Justice Jeffreys, who took every opportunity of browbeating him. When Wallop, on the trial of Bradford and Speke in 1684 for asserting that the Earl of Essex was murdered in the tower, persisted in asking some question of the witness, which the chief justice disapproved, his lordship exclaimed, "Nay, Mr. Wallop, be as angry as you will, you shall not hector the court out of their understandings;" and upon Wallop's saying, "I refer myself to all that hear me, if I attempted such a thing as to hector the court," he was checked thus intemperately by the judge: "Refer yourself to all that hear you! refer yourself to the court. It is a reflection on the government, I tell you the question is, and you shan't do any such thing while I sit here by the grace of God, if I can help it;" and again, "Pray behave yourself as you ought, Mr. Wallop, you must not think to huff and swagger here." On the trial in the same year of Thomas

[1] Middle Temple Books; Collins' Peerage, iv. 305.

Rosewell for high treason the chief justice took another opportunity of showing his prejudice against the unfortunate counsel. Seeing him in court he asked him what business he had there, and on his saying that he only came from curiosity to hear the trial, Jeffreys declared that it should not proceed while he remained. Wallop however had the pleasure afterwards of moving successfully in arrest of the judgment. Another instance of this judge's brutality towards Mr. Wallop occurred shortly after when he was counsel for Richard Baxter. "Mr. Wallop," said Jeffreys, "I observe you are in all these dirty causes; and were it not for you gentlemen of the long robe, who should have more wit and honesty to support and hold up these factious knaves by the chin, we should not be at the pass we are at." Mr. Wallop mildly answered, "My lord, I humbly conceive that the passages accused are natural deductions from the text." Upon which the infuriated chief cried out, "You humbly conceive! and I humbly conceive; swear him, swear him." Wallop attempted to proceed, but Jeffreys stopped his advocacy by saying, "Sometimes you humbly conceive, and sometimes you are very positive; you talk of your skill in church history, and of your understanding Latin and English; I think I understand something of them as well as you; but in short I must tell you that if you do not your duty better, I shall teach it you."[1]

These attacks upon him originated probably from some personal antipathy, as every other judge treated him and his arguments with respect. They continued during the whole of the coarse Chief Justice's presidency of the court, and were regarded with the greater disgust from the object of them being an old man approaching his seventieth year.

After ten or eleven years more of hard forensic duty he

[1] State Trials, vii. 1525; viii. 303, 561; ix. 1176; x. 269; xi. 498; Luttrell, i. 69, 195, 297; Woolrych's Jeffreys, 145.

obtained a retirement from his labours in the snug office of cursitor baron of the Exchequer, to which he was appointed on March 16, 1696. Not long was his enjoyment of it, Narcissus Luttrell recording that "old Mr. Wallop, cursitor baron," died on August 22, 1697.[1] This branch of the family has been long extinct.

WARD, EDWARD.

CH. B. E. 1695. COM. G. S. 1700.

See under the reign of Anne.

WRIGHT, NATHAN.

LORD KEEPER, 1700.

See under the reign of Anne.

[1] Luttrell, iv. 32, 267; Pat. 8 Will. III. p. 4.

ANNE.

Reigned 12 years, 4 months, and 24 days; from March 8, 1702, to August 1, 1714.

SURVEY OF THE REIGN.

On the accession of Queen Anne the judges were all continued in their places, and they all sat during Easter Term. But at the beginning of Trinity term Sir John Turton, justice of the Queen's Bench, and Sir Henry Hatsell, baron of the Exchequer, were superseded by patent, and to all the other judges and barons, except Chief Justice Holt, who had previously received his, new patents were issued. It was thus decided that their former patents granted *quamdiu se bene gesserint*, were, notwithstanding the statute 12 and 13 William III., determined by the demise of the king, although the question, Lord Raymond says (p. 769), was doubted by many. While the independence of the common-law judges was in a great measure secured by that statute, this invaluable boon was not extended to the lord chancellor, the principal judge of the Court of Equity, who was still subject to removal at the will of the monarch; and this reign may be considered as the commencement of the practice, ever since almost invariably adopted, of changing that officer with every alteration in the ministry, and entrusting the Great Seal to a lawyer of congenial politics with the party then called by the king to his council.

With some little inconveniences, this practice is attended with many advantages. The chancellor, being the legal adviser of the throne and especially recognised as the keeper of the king's conscience, is necessarily as much a political, as a judicial character; and, were his office to be rendered a permanent one, the numerous embarrassments and sometimes fatal consequences, which would result from the differences of opinion perpetually arising between a Tory chancellor and a Whig ministry, or the reverse, may be readily conceived and more than justify the apparent anomaly. The attorney and solicitor-general also, being the legal advisers of the administration, were selected at every change from among the political friends of the body in power.

All doubts relative to the position of these and other officers, civil or military, on the demise of the crown, were settled by a statute passed in this reign (6 Anne, c. 7, s. 8) enacting that they should continue and act for the space of six months after such demise, unless sooner removed or discharged by the next successor.

Neither of the three judges, to whom the presidency of the Court of Chancery was entrusted during this reign, received at first any higher designation than lord keeper of the Great Seal; but to the last two of them that title was after some time changed to the more distinguished one of lord chancellor.

LORD CHANCELLORS, KEEPERS AND COMMISSIONERS OF THE GREAT SEAL.

SIR NATHAN WRIGHT, the lord keeper at King William's death, was continued in office by Queen Anne till the change of her ministry in 1705, when he was removed, and

WILLIAM COWPER, Esq., one of the Queen's counsel, received the Seal as lord keeper on October 11, 1705. In

November 1707, he was raised to the peerage with the title of Baron Cowper of Wingham; and in the following May was made lord chancellor. The ministry being again changed, he resigned his office, and

SIR THOMAS TREVOR, Ch. C. P.,
ROBERT TRACY, Esq., Just. C. P., and
JOHN SCROPE, Esq., B. E. Scotland,
} were on September 26, 1710, appointed Commissioners of the Great Seal; which after holding twenty-four days was delivered to

SIR SIMON HARCOURT, the attorney-general, on October 19, 1710, as lord keeper, a title which was changed to that of lord chancellor on April 7, 1713, he having been created Baron Harcourt of Stanton Harcourt, Oxfordshire, in September 1711. He retained his office till the queen's death on August 1, 1714.

Lord Keeper Cowper on the first of January after his appointment put an end to an obnoxious custom of ancient standing, by refusing the new year's gifts, which had been customarily given not only by the officers of his court, but by the counsel of his bar, and which were reputed according to Burnet to amount to 1500*l.*, but according to Lady Cowper, to nearly 3000*l.*[1] The number of those who offered these presents is significantly alluded to by Mr. (afterwards Bishop) Gibson, in a letter to Dr. Chartlett, dated December 19, 1694, recommending his correspondent not to take his dedication to a new edition of Camden's Britannia to Lord Somers (then lord keeper) on new year's day, because "my lord is so taken up that day with presents from all the courts in Westminster Hall, that he'd hardly be in a condition to receive anything else."[2]

From Lord Cowper's Private Diary, printed and presented by Dr. Hawtrey to the Roxburgh Club in 1833, it

[1] Burnet, v. 243; Lady Cowper's Diary.
[2] Ellis's Letters of Eminent Men (Camden Soc.), p. 236.

appears that as chancellor he was allowed 4000*l.* a year; and that he received, as well as his predecessor, a gift, on his presentation to the Seal, of 2000*l.*, in the name of "Equipage Money." His lordship's income while keeper or chancellor is stated, in an account appended to the Diary, to have been about 8000*l.* per annum; the excess beyond his salary consisting, it is presumed, of the various fees to which he was entitled.

MASTER OF THE ROLLS.

SIR JOHN TREVOR, who had held the office for nine years under William III., retained it during the whole of this reign.

MASTERS IN CHANCERY.

Sir John Trevor, M.R.	1 to 13 Anne
Sir Lacon W. Child	1 to 9 —
John Franklyn	1 to 7 —
John Hoskyns	1 to 2 —
Robert Legard	1 to 11 —
John Edisbury	1 to 8 —
John Methwen	1 to 5 —
Samuel Keck	1 to 10 —
Thomas Pitt	1 to 11 —
Richard Holford	1 to 9 —
Thomas Gery	1 to 13 —
William Rogers	1 to 13 —
John Hiccocks	2 to 13 —
James Medlycott	5 to 13 —
William Fellows	7 to 13 —
John Meller	8 to 13 —
John Orlebar	9 to 13 —
Fleetwood Dormer	9 to 13 —
Samuel Browning	10 to 13 —
Robert Holford	11 to 13 —
Henry Lovibond	11 to 13 —

CHIEF JUSTICES OF THE QUEEN'S BENCH.

SIR JOHN HOLT, who had filled the office during the whole of the preceding reign, was re-appointed in this,

during nine years of which he presided in this court. On his death he was succeeded by

SIR THOMAS PARKER, one of the queen's serjeants, on March 11, 1710, who retained the place during the remainder of the reign.

JUSTICES OF THE QUEEN'S BENCH.

I. 1702. March 8. John Turton, Littleton Powys, Henry Gould, } King William's judges, continued by Queen Anne.
June 24. John Powell, vice J. Turton.
IX. 1710. May 5. Robert Eyre, vice H. Gould.
XII. 1713. June 8. Thomas Powys, vice J. Powell.

The judges of this court at Queen Anne's death were
Sir Thomas Parker, chief justice,
Sir Littleton Powys, Sir Robert Eyre,
Sir Thomas Powys.

CHIEF JUSTICE OF THE COMMON PLEAS.

SIR THOMAS TREVOR, the chief justice at the end of William's reign, presided in this court during the whole of Queen Anne's; being called to the House of Peers on December 31, 1711 by the title of Baron Trevor of Bromham.

JUSTICES OF THE COMMON PLEAS.

I. 1702. March 8. Edward Nevil, John Powell, jun., John Blencowe } had their patents renewed
June 24. Robert Tracy, vice J. Powell.
IV. 1706. Jan. 8. Robert Dormer, vice E. Nevil.

The judges at the end of the reign were
Thomas, Lord Trevor, chief justice,
Sir John Blencowe, Robert Tracy, Esq.,
Robert Dormer, Esq.

CHIEF BARON OF THE EXCHEQUER.

SIR EDWARD WARD, the chief baron of the last reign, occupied the seat till his death on July 16, 1714, a fortnight before that of the queen, during which a successor was not appointed.

BARONS OF THE EXCHEQUER.

I. 1702.	March 8.	Henry Hatsel, Robert Tracy, Thomas Bury, William Simpson, cursitor, } were retained in their seats.
	June 24.	John Smith, vice H. Hatsell.
		Robert Price, vice R. Tracy.
VII. 1708.	June 17.	Salathiel Lovell, on Baron Smith being sent to Scotland as chief baron.
XII. 1713.	June 8.	William Banister, vice S. Lovell.

There were four puisne barons of this Court at the end of the reign, besides the cursitor baron, Baron Smith being also chief baron of Scotland, viz.:—

There was no chief baron,

Sir Thomas Bury, — John Smith, Esq.,

Robert Price, Esq., — Sir William Banister,

Sir William Simpson, cursitor baron.

COURT OF CHANCERY.

A R.	A.D.	LORD CHANCELLORS AND KEEPERS.	MASTER OF THE ROLLS.
1	1702. March 8	Sir Nathan Wright, *Keeper*	Sir John Trevor.
4	1705. Oct. 11	William Cowper, Esq., *Keeper*	—
5	1706. Nov. 6	*cr.* Lord Cowper	—
6	1707. May	— *Chancellor*	—
7	1708. Sept. 26	Sir Thomas Trevor, Robert Tracy, Esq., John Scrope, Esq } *Commissioners*	—
	Oct. 19	Sir Simon Harcourt, *Keeper*	—
10	1711. Sept.	*cr.* Lord Harcourt	
12	1713. April 7	— *Chancellor.*	—

Court of Queen's Bench.

A.R.	A.D.	Chief Justice.	Judges of the Queen's Bench.		
1	1702. March 8	John Holt	John Turton	Littleton Powys	Henry Gould.
	June 24	—	John Powell	—	—
9	1710. March 11	Thomas Parker	—	—	—
	May 5	—	—	—	Robert Eyre.
12	1713. June 8	—	Thomas Powys	—	—

Court of Common Pleas.

A.R.	A.D.	Chief Justice.	Judges of the Common Pleas.		
1	1702. March 8	Thomas Trevor	Edward Nevil	John Powell	John Blencowe.
	June 24	—	—	Robert Tracy	—
4	1706. Jan. 8	—	Robert Dormer	—	—
10	1711. Dec. 31	*cr.* Lord Trevor	—	—	—

Court of Exchequer.

A.R.	A.D.	Chief Baron.	Barons of the Exchequer.		
1	1702. March 8	Edward Ward	Henry Hatsel	Robert Tracey	Thomas Bury.
	June 24	—	John Smith	Robert Price	—
7	1708. June 17	—	Salathiel Lovell*	—	—
12	1713. June 8	—	William Banister	—	—
13	1714. July 16	died.	—	—	—

* John Smith still remained a baron here, though removed to Scotland. William Simpson was cursitor baron during the whole of the reign.

Attorney-Generals.

I.	1702. March.	Edward Northey, resigned.
VI.	1707. April.	Simon Harcourt, resigned.
VII.	1708. Oct.	James Montagu, resigned.
IX.	1710. Sept.	Simon Harcourt, made lord keeper.
	Oct.	Edward Northey.

Solicitor-Generals.

I.	1702. March.	John Hawles, resigned.
	June 1.	Simon Harcourt, made attorney-general.
VI.	1707. April.	James Montagu, made attorney-general.
VII.	1708. Oct.	Robert Eyre, made Just. Q. B.
IX.	1710. May 13.	Robert Raymond.

SERJEANTS-AT-LAW.

The added initial marks the Inn of Court to which they belonged, and those who became judges have a * prefixed.

I. 1702. *Robert Price (L.) *Thomas Powys.
Motto, "Regina et lege gaudet Britannia."[1]

V. 1706. *Thomas Parker (I.) Richard Wynne (M.)
Henry Cheatham (G.) Richard Richardson (M.)
John Grove (I). John Hoo (I.)
*William Banister (M.) John Cheshire (I.)
John Brodrick (M.) John Birch (M.)
Joseph Weld (M.) *John Comyns (L.)
John Bennet (G.) Thomas Webb (M.)
Henry Lloyd (I.)
Motto, "Moribus, Armis, Legibus.'
*Robert Dormer (L.)

IX. 1710. *Robert Eyre (L.) *Thomas Pengelly (I.)
Motto, "Unit et imperat."

QUEEN'S SERJEANTS.

I. 1702. *Thomas Powys — Birch.[2]
Sworn as senior Queen's serjeants.
*Salathiel Lovell (G.) *Joseph Jekyll (M.)
John Darnall (M.) Richard Hooper (I.)

V. 1706. *Thomas Parker (I.)
1711. John Cheshire (I.)

The feast in 1702 was at Lincoln's Inn; in 1706 at the Middle Temple, and in 1710, according to Wynne (p. 166), was at Lincoln's Inn, but according to Luttrell (vi. 581), was at Serjeants' Inn, Fleet Street.

QUEEN'S COUNSEL.

1702. William Whitlocke. William Cowper.
John Conyers. William Jennings.
1706. William Aglionby. James Montagu.
1707. Robert Eyre.
17—. Edward Jeffreys. John Ward.
Thomas Lutwyche.

[1] The motto originally engraved on their rings was "Deo et Reginæ," but being objected to by the Lord Keeper, was altered to the above.

[2] 2 Lord Raymond, 769, but the name of Birch does not appear among the Serjeants-at-Law till 1706.

The custom of retaining counsel in fee lingered in form, at least in one ducal establishment. By a formal deed-poll between the proud Duke of Somerset and Sir Thomas Parker, dated July 19, 1707, the duke retains him as his "standing counsell in ffee," and gives and allows him "the yearly ffee of four markes, to be paid by my sollicitor" at Michaelmas, "to continue during my will and pleasure." [1]

There is little interesting to record during this reign in reference to the Inns of Court and Chancery. The returns made in 1704–5–6, of the duties on marriages, births, burials, bachelors and widowers, under a statute of William III., separate them from the parishes of London; and from the following entries the population of each may be estimated.

	£	s.	d.		£	s.	d.
Middle Temple	70	6	0	Furnival's Inn	3	18	0
New Inn	10	4	0	Gray's Inn	37	18	0
Inner Temple	39	14	0	Barnard's Inn	3	6	0
Lyon's Inn	6	0	0	Staple Inn	3	0	0
Clement's Inn	4	4	0	Serjeant's Inn—			
Clifford's Inn	8	2	0	Fleet Street	0	0	0
Lincoln's Inn	26	5	0	Chancery Lane	5	12	0
Thavies' Inn	2	2	0		£220	11	0

Barnard's Inn.—The books of this society contain some curious items. At a pension held in November 1706, the custom of giving a fowl and wine at initiations was abrogated; and it was ordered that two quarts of wine only be given to each mess of four men by two gentlemen being initiated. The steward allowed for commons on flesh days (five days in the week) seven pence a day for every member; for Friday dinners for potage and fish, one penny halfpenny; and for Saturday threepence a member and no more.

The rule of the Upper Bench issued in 1654 making it indispensable for every attorney to be admitted in one of the Inns of Court or Chancery, had evidently been lately

[1] Gent. Mag. July 1853, p. 38.

evaded, if indeed it had ever been strictly enforced; for in 1704 the judges renewed the order in more positive terms. Whether they had any authority to make these rules may be a question; but it is certain that they showed no great inclination to insist on their general adoption. This was soon rendered impossible by the vast increase of practitioners, and by the refusal of the different societies to admit applicants whom they did not, for any reason, approve. The rule, therefore, though never actually rescinded, became a dead letter; and attorneys are now under statutory regulations which do not require them to be members of any Inn of Court or Chancery.[1]

[1] See vol. iv. 416; 5 Adolphus and Ellis, 19.

BIOGRAPHICAL NOTICES

OF

THE JUDGES UNDER THE REIGN OF ANNE.

BANISTER, WILLIAM.

B. E. 1713.

See under the reign of George I.

BLENCOWE, JOHN.

Just. C. P. 1702.

See under the reigns of William III. and George I.

BURY, THOMAS.

B. E. 1702.

See under the reigns of William III. and George I.

COWPER, WILLIAM, Lord Cowper.

Lord Keeper, 1705. Lord Chanc. 1707.

See under the reign of George I.

DORMER, ROBERT.

Just. C. P. 1705.

See under the reign of George I.

EYRE, ROBERT.

Just. Q. B. 1710.

See under the reign of George I.

GOULD, HENRY.

JUST. Q. B. 1702.

See under the reign of William III.

TWO Sir Henry Goulds attained judicial honours, and have been sometimes confounded with each other. One was grandfather to the other; the former a judge of the King's Bench from 1699 to 1710, and the other successively a baron of the Exchequer and judge of the Common Pleas from 1761 to 1794.

The first Sir Henry was born about 1644 and belonged to a Somersetshire family. He is described in his admission to the Middle Temple in 1660, as the son and heir of Andrew Goold of Winsham in that county. He was called to the bar in 1667, and elected a bencher in 1689. Having acquired an extensive practice he was included in the great call of serjeants in 1692, and made one of the king's serjeants in the following year. In this character he conducted the case for the bill of attainder against Sir John Fenwick in 1696.

On January 26, 1699, he was promoted to be a judge of the King's Bench; and on his first circuit had the unpleasant necessity of inflicting a fine of 100*l.* on Sir John Bolls at Lincoln, for giving him the lie, kicking the sheriff, and other disorderly conduct.[1]

On the death of King William his patent was renewed by Queen Anne under whom he acted for the eight remaining years of his life; dying at his chambers in Serjeant's Inn, Chancery Lane, on March 26, 1710. His residence was at Sharpham Park, between Street and Walton in Somersetshire, the future birth-place of the celebrated novelist and magistrate Henry Fielding, who was the son of Sarah, the judge's daughter, by her marriage with Lieutenant

[1] State Trials, xiii. 546; Luttrell's Diary, iv. 545

(afterwards Lieutenant-General) Edmund Fielding, nephew of the Earl of Denbigh.

Sir Henry married Miss Davidge of Worcester, and by her, besides his daughter Sarah, he left a son named Davidge after his mother's family, who was the father of the judge in the reign of George III.[1]

HARCOURT, SIMON, Lord Harcourt.

Lord Keeper, 1708. Lord Chanc. 1713.

See under the reign of George I.

HATSEL, HENRY.

B. E. 1702.

See under the Reign of William III.

The father of this baron was Captain Henry Hatsel of Saltram near Plymouth, who took a strong part in the great rebellion and was selected as one of the representatives of Devonshire in the two parliaments of 1654 and 1656, and as member for Plympton in the only parliament of Richard Cromwell.[2] His son Henry was born in March 1641, just before the beginning of the troubles, and was devoted to the law when they were nearly terminated, being admitted in 1659 a member of the Middle Temple. From his call to the bar in 1667 till his summons by King William to take the degree of the coif in 1689 little is recorded of his legal attainments or professional success, to which however, more than to his hereditary principles, it is fair to attribute his advancement. In another eight years he was promoted to the bench, being placed as a baron in the Court of Exchequer on November 23, 1697, when he received the honour of knighthood. He filled the seat during the

[1] Lord Raymond, 414, 1309; Collins' Peerage, iii. 277; Collinson's Somersetshire, ii. 268; Burke's Landed Gentry (1862).

[2] Parl. Hist. iii. 1429, 1479, 1532; Gent. Mag. July 1849, p. 2.

remainder of William's reign, and was reappointed on the accession of Queen Anne on March 2, 1702. But on the 4th of the following June he suddenly received a message from Lord Keeper Wright, informing him that he might forbear sitting the next morning, the first day of term, her majesty designing his quietus. So terminated his judicial career, in which there is nothing noticeable except that he presided at the Surrey Assizes on the extraordinary trial of Spencer Cowper (brother of the future lord chancellor, and himself afterwards a judge), who was charged with the murder of Sarah Stout, and acquitted. The baron's conduct on this trial does not tell much in favour of his judicial capacity. He lived twelve years after his discharge, and died in April 1714. His monument is in the Temple Church.

He married Judith, daughter of Josiah Bateman, merchant of London, and widow of Sir Richard Shirley, Bart. His son Henry, who died in 1762, and his grandson John, who died in 1820, were both benchers of the Middle Temple.[1]

HOLT, JOHN.

CH. K. B. 1702.

See under the Reign of William III.

AFTER the succession of chief justices that disgraced the bench in the reigns of Charles and James since the death of Sir Matthew Hale, it is refreshing to arrive at a name which excites universal admiration, as possessed by one who was erudite in law, independent in character, and just and firm in his decisions. In him we fix the commencement of a new era of judicial purity and freedom, marked with that perfect exemption from extraneous influences, which

[1] Lord Raymond, 250, 768; Luttrell, iv. 309, v. 181; State Trials, xiii. 1105; Topog. and Geneal. iii. 41.

has, with few exceptions, ever since distinguished the bench, and which is now the undisputed glory of our judicature.

The family of Holt had flourished for some centuries at Grislehurst in Lancashire, and in Queen Elizabeth's time had divided into several branches. The descendant of a younger son, who became a merchant in London, was the father of Thomas Holt, a bencher of Gray's Inn and recorder of Abingdon, from which office he was removed in 1676, and having made an apparently unsuccessful application to be restored, was compensated in 1677 by receiving the degree of the coif, and by being subsequently knighted. He married Susan, daughter of John Peacock of Chawley near Abingdon, and their eldest son was the future chief justice. John Holt was born at Thame in Oxfordshire on December 30, 1642, if the inscription on his monument is to be depended upon.[1] If there is no error in this date he had not completed his tenth year when he was admitted into the society of Gray's Inn on November 19, 1652; nor attained his majority when he was called to the bar on February 27, 1663, unless the latter entry means 1663–4. The early admission may perhaps be explained by his father being reader of the Inn at the time. His previous education was at the free school in Abingdon; whence he was removed in 1658 to Oriel College, Oxford. There he is reputed to have been notorious for his idleness and for his association with dissolute companions, who led him into every kind of license and extravagance. Some tales that were subsequently related of him give probability to the report of his juvenile delinquency; but he soon saw the error of his ways, deserted his old haunts and associates, left the university

[1] T. Jones, 51; Pearce, in his "Inns of Court," 371, says that the year of his birth is stated on his tomb to be 1640: but the Rector of Redgrave, having kindly inspected the inscription for me, declares it to be clearly 1642.

without taking a degree, and applied himself diligently, under the tuition of his father, to that profession of which he was destined to be one of the brightest ornaments.

So early did he exhibit his superiority that we find his name in Sir Thomas Raymond's "Reports," with the addition of "junior," in the year 1668; and not long after it appears with great frequency not only in those but in other reports of the time. In 1676 he became an ancient of his inn; and from 1679 till the beginning of James's reign he was engaged in almost all of the numerous State Trials which occupied the courts of justice during that unhappy period. At first he was retained on the part of the prosecution, but his distaste to the arbitrary proceedings of the government becoming apparent, he was soon employed by the unfortunate prisoners who were the victims. Whether on one side or the other his advocacy was remarkable for so much lucidity of arrangement, and such fairness of statement, and his arguments displayed such profound knowledge of the principles of law, that his colleagues could not but augur his future promotion. But his nomination as counsel for three of the popish lords impeached in 1679, and his appearance in the defence of Pilkington and others for a riot at a city election; of Sir Patience Ward for perjury; of Lord Russell for high treason; and of Sacheverell and others for a riot in the election of mayor of Nottingham [1]; —all political questions—seemed to forbid any early fulfilment of the expectation of advancement. On the other hand, his arguments in favour of the monopoly of the East India Company, and in defence of Mr. Starkey against the Earl of Macclesfield, and his opinion in favour of the legality of the judgment upon the *Quo Warranto* against the city of London, in addition to the respect with which he was invariably treated

[1] State Trials, vii. 1242, 1260; ix 296, 324, 587; x. 84.

by Chief Justices Scroggs, Pemberton, and Jeffreys, pointed him out as a fit object for royal favour.[1]

On February 18, 1686, he was induced rather unwillingly to take the recordership of London in the place of Sir Thomas Jenner. He was thereupon knighted, and in the Easter Term following he received the degree of the coif, and was immediately made king's serjeant. But his independence and his sense of right would not allow him to act according to the king's unconstitutional desires. A soldier being found guilty of felony in running away from his colours, the recorder refused to pronounce sentence of death upon him, doubting, as the kingdom was at peace, whether the conviction was good in law. As the royal project of creating a standing army would have been frustrated if such a doubt was recognised, Sir John Holt was of course removed, and Serjeant Tate put in his place. He retained his position however of king's serjeant, and appeared in that character at the council held on October 22, 1688, for the purpose of proving the genuineness of the birth of the Prince of Wales.[2] On James's desertion of the kingdom Holt was one of the lawyers called by the Lords to advise them on the course to be taken; and in the Convention Parliament that met in January 1689, he was returned as the representative of the Cornish borough of Beeralston in the place of Sir John Maynard who made his election to sit for Plymouth.

In the early sittings of that parliament he took a leading part; but his senatorial duties were soon terminated by his removal to a judicial sphere. In order to ensure a learned bench, King William required every privy councillor to furnish a list of twelve lawyers, and out of these lists he selected the twelve of most conspicuous merit. One of the most satisfactory appointments was that of Sir John Holt,

[1] State Trials, x. 371, 1351; Speaker Onslow's Note to Burnet, iv. 67.

[2] Bramston's Autob. 245, 276; State Trials, xii. 125.

whose patent as chief justice of the King's Bench was dated April 17, 1689.[1] For twenty-one years did he grace that seat, his presidency extending over the whole of King William's reign and two-thirds of that of Queen Anne; during which period the administration of justice was distinguished by learning, sagacity, and integrity, and freed from the suspicion of private bias or courtly dictation; most effectually securing the confidence and commanding the applause of all parties, whether whigs or tories, from the contrast it presented to the experience of the preceding thirteen years. It would serve little purpose to go through the criminal trials at which he presided: in all of them he acted with such honesty and impartiality that many of the accused, even when convicted, acknowledged the fairness with which they had been treated.

The only instance in which some have impugned his conduct is in regard to the trials of Charnock and others and Sir William Parkyns in relation to the vile assassination plot, the former of which took place on March 11, and the latter on March 24, 1696. The prisoners applied to have counsel allowed them, referring to an Act recently passed which gave the accused that privilege in cases of treason, but which did not come into operation till March 25. The chief justice denied the applications, declaring that he was bound by the law as it then stood; and refused to put off the trials, the prisoners not offering any substantial reason to warrant the delay.[2] The charge of harshness however cannot be fairly supported against Holt, who did no more than his duty; unless he hurried on the trials so as to deprive the prisoners of the benefit of the new law; which is not insinuated; but is rather to be imputed (if at all) to the parties conducting the prosecutions.

[1] 4 Report Pub. Rec. Appendix, ii. 184.

[2] State Trials, xii. 1381; xiii. 72; Bramston, 381; Hortensius, 370.

A dispute arose in 1696 between him and the Duchess of Grafton with respect to the place of master of the King's Bench office, which was taken into the House of Lords, where after several hearings the difference was compromised by the interference of the king; the duchess agreeing to receive 1,500*l.* a year out of the profits during the life of the chief justice and that of his brother, Rowland Holt, who executed the duties, and afterwards the whole for herself. In February 1698 he and Justice Eyre had the courage to resist the House of Lords, when they were required to give their reasons for the judgment they had pronounced in 1694 in favour of Charles Knollys, claiming to be Earl of Banbury, who had pleaded his peerage to an indictment charging him as a commoner with the murder of Philip Lawson, his brother-in-law. The refusal of the two judges to do so, unless the case was brought before the lords by writ of error, gave such offence, that there was some inclination to commit them both to the tower: but, though the question was adjourned, it was never resumed, and the inquiry, as Lord Raymond says, "vanished in smoak."[1]

That this resistance did not arise from caprice but from principle, is proved by his conduct in the Aylesbury case. The three puisne judges of the King's Bench having, in opposition to his opinion, reversed a verdict in which the constables of Aylesbury were cast in damages for refusing to permit a voter to exercise his franchise, the case was removed into the House of Lords on a writ of error. There, on the opinion of the judges being regularly required, he explained in a very learned argument the grounds of his judgment, and had the pleasure of being supported by Lord Somers and a great majority of peers, who set aside the order of his colleagues and confirmed the verdict given for

[1] Luttrell, ii. 231, 243; 1 Lord Raymond, 18.

the injured voter.[1] This is not the place to discuss the question of privilege to which this decision gave rise in the commons: but no one can reasonably dispute the right of every man who suffers a personal injury to resort to the courts of justice for a legal remedy. The story frequently related of his retort to the speaker in this case is a mere fabrication. Nor was this the only occasion in which the lords confirmed his opinion against that of great legal authorities. In the iniquitous case of the bankers, the Court of Exchequer had pronounced a judgment in their favour, which the Court of Exchequer Chamber had by a quibble reversed; such reversal having been strenuously opposed by Holt, and as strenuously supported by Lord Chancellor Somers and Chief Justice Treby. On being taken into the House of Lords, Holt's opinion was confirmed, and the reversal was reversed. It is said that Lord Somers took this decision so much to heart, that he fell ill and never appeared on the woolsack more: but those who understand his lordship's character and know the history of the time will place little credence on this apocryphal tale.[2] The correctness also of his judgment that a writ of error would not lie upon his denial of a prohibition prayed for by Dr. Watson, Bishop of St. David's, was acknowledged by the House of Lords in opposition to the dictum of Lord Chancellor Somers.

So highly were his services valued by King William that on the removal of Lord Somers he was urgently pressed to accept the Great Seal; but wisely declining the responsible and unstable honour, he excused himself to his majesty by saying, "That he never had but one Chancery cause in his life, which he lost, and consequently could not think himself fitly qualified for so great a trust." He however

[1] Burnet, v. 112, 191; Vernon's Letters, iii. 250; State Trials, xiv. 779.

[2] Lord Dartmouth's Note on Burnet, iv. 422; State Trials, xiv. 29.

consented to act as chief commissioner till the vacancy was filled up, and, in conjunction with the two other chiefs, held the Seal from May 5 to 21, when Sir Nathan Wright was appointed lord keeper. On the death of King William he took out a new commission, notwithstanding that his office was held "quamdiu se bene gesserit;" thus establishing the principle that the judges were removable at the demise of the crown, which continued to prevail till the accession of George III., who by one of his first acts secured them in their seats on the accession of a new king.

For eight years of the reign of Queen Anne he maintained the credit of the bench. He sat in court for the last time on February 9, 1709–10; and on March 5, during the progress of the unadvised trial of Dr. Sacheverell, he died at his house in Bedford Row. He was buried in the church of Redgrave in Suffolk, the manor of which, formerly possessed by Sir Nicholas Bacon, he had purchased; and a costly monument, representing him sitting in a chair in his robes and collar, was erected to his memory.

During the extended period of his judicial reign he retained the respect and the confidence of all. His appointment as executor of Chief Justice Treby is some proof of the estimation in which he was regarded by his contemporaries; which is still further displayed in the "Tatler," No. 14, written about a year before his death; and the character there eloquently given has been acknowledged to be a faithful description from that time to this. Thoroughly versed in the principles of the law, and perfect master of its practice, he was strict in its application, but humane, patient, and forbearing in its administration. Keeping himself entirely aloof from the political intrigues of the time, his decisions were free and unfettered, neither influenced by personal prejudice nor overawed by the threats of power. His spirited resistance of the latter has been already ex-

emplified; and his personal courage is evidenced by the following tradition. A mob having assembled with the intention of pulling down a house in Holborn where persons were supposed to be kidnapped and then sent to the colonies, the guards were called out. The chief justice being applied to, asked the officer what he would do if the populace did not disperse. "Fire on them," said the officer, "as we have orders." "Have you so?" replied the judge, "then take notice that if one man is killed, and you are tried before me, I will take care that every soldier of your party is hanged." He then himself, accompanied by his tipstaves, went to the mob, and boldly facing them, by explaining to them the impropriety of their conduct, with a promise that justice should be done against the crimps, induced them quietly to disperse.

Among the anecdotes that have reference to his early follies is the following; which shows that he did not hesitate to acknowledge them when the confession would serve the ends of justice. In a trial of an old woman for witchcraft, the witness against her declared that she used a "spell." "Let me see it," said the judge. A scrap of parchment being handed up to him, he asked the old woman how she came by it, and on her answering, "A young gentleman, my lord, gave it me to cure my daughter's ague," inquired whether it cured her. "Oh! yes, my lord, and many others," replied the old woman. He then turned to the jury and said, "Gentlemen, when I was young and thoughtless, and out of money, I and some companions, as unthinking as myself, went to this woman's house, then a public one, and having no money to pay our reckoning I hit upon a stratagem to get off scot-free. Seeing her daughter ill of an ague I pretended I had a spell to cure her. I wrote the classic line you see, and gave it her; so that if any is punishable, it is I, and not the poor woman." She was of course acquitted;

and did not fail to receive from the judge a compensation for the trouble he had caused her. In none of the trials before him for this supposed crime was a conviction obtained, and prosecutions for it from his time fell into discredit; which was increased by his putting into the pillory one Hathaway, convicted of pretending to be bewitched by a poor woman whom he had recently indicted for the crime. Of the idle companions of his youthful frolics there is a melancholy tradition that it was his fate to have one of them tried before him and convicted of felony. The prisoner was afterwards visited by him in gaol, and to his inquiry after their college intimates, answered, "Ah! my lord, they are all hanged but myself and your lordship."[1]

His only legal publication was an edition of Sir John Keyling's reports; to which he subjoined three important cases which he had decided.

He married Anne, daughter of Sir John Cropley, Bart., who survived him for two years, but brought him no issue. His large estates he devised, after she should die, to his brother Rowland and his sons in tail; and in 1764 (the date of a memoir of his life) they were in possession of the eldest son of his third nephew, who then represented the county of Suffolk in parliament. Eventually, by the failure of male issue, the estate of Redgrave became the property of his sister Lucinda the wife of Thomas Wilson, and mother of Admiral George Wilson, whose descendant now enjoys it.[2]

LOVELL, SALATHIEL.

B. E. 1708.

THE period of this judge's birth at the early part of the seventeenth century will probably account for the scriptural baptismal name that he bore. He was the son of the Rev.

[1] Noble's Cont. of Granger, i. 165.

[2] Wood's Ath. Oxon. iv. 505; Life (1764); Welsby's Lives, 90.

Bernard Lovell of Lapworth in the county of Warwick, and was born about the year 1619. He did not enter on his legal studies till June 1648, when he was admitted at Gray's Inn, by which society he was called to the bar in November 1656, and made an ancient in April 1671. Neither did he obtain general practice for some years, since he is not mentioned in the Reports till 1682; but in 1684 he appears as one of the counsel employed for Mr. Sacheverell and others on their trial for a riot at the election of mayor of Nottingham. He was called to the degree of the coif in 1688; and on the resignation of Chief Justice Treby in June 1692 he stood for the recordership of London, and was elected by the casting vote of the lord mayor. In the following October he was knighted on carrying up the address of the corporation on King William's return from abroad.[1]

He performed the duties of his office so much to the satisfaction of the court, that he was promoted to be king's serjeant in May 1695, and a judge on the Chester circuit in the following year. In that year he pronounced sentence on Peter Cook, convicted of participation in the assassination plot, and was engaged to produce the evidence in support of the bill of attainder against Sir John Fenwick. A vacancy having occurred in 1700 in the bench at Westminster he was proposed to supply it, but the king objected to his appointment, because he had refused to make way for Sir Bartholomew Shower to be recorder[2]; and it was not till some years after the king's death that he obtained this promotion.

He was on the verge of ninety years of age when he was at last appointed a fifth baron of the court of Exchequer on June 17, 1708, to supply the vacancy occasioned by Mr. Baron Smith being sent to Scotland as chief baron. He sat for the

[1] Gray's Inn Books; State Trials, x. 61; Luttrell, i. 446, ii. 478, 598.

[2] State Trials, xiii. 395, 546; Vernon's Letters, iii. 74.

next five years, but from his extreme age could not be of much use to his colleagues. Distinguished principally by his want of memory, his title of recorder was converted into the nickname of the obliviscor of London. His great-grandson Richard Lovell Edgeworth relates that a young lawyer pleading before him was so rude as to say, "Sir, you have forgotten the law;" on which he replied, "Young man, I have forgotten more law that you will ever remember." This story, however, is told, with a difference, of Serjeant Maynard, and of other old lawyers. He died on May 3, 1713, leaving several children. One of them, Samuel Lovell, also became a Welsh judge, of whom a ludicrous anecdote is told, of his refusing, when overtaken by the tide near Beaumaris, to mount the coach-box to escape drowning, unless a precedent could be quoted for a judge's doing so.[1]

NEVIL, EDWARD.

Just. C. P. 1702.

See under the Reigns of James II. and William III.

Edward Nevil was the second son of Henry Nevil of Bathwick in Somersetshire. Admitted a member of Gray's Inn in 1650 he was called to the bar in 1658, and became an ancient in 1676. He received the honour of knighthood in June 1681, when, as recorder of Bath, he presented the address of that corporation thanking Charles II. for his recent declaration. That king having raised him to the degree of the coif in January 1684, King James on his accession made him one of his serjeants; and on October 11 following (1685) further promoted him to be a baron of the Exchequer. This seat he occupied only six months, being too honest to support the royal assumption of the dispensing power. He accordingly received his quietus on April 21, 1686; and remained

[1] Luttrell, vi. 316; Life of Edgeworth, i. 18.

unemployed during the rest of the reign. But on the settlement of the courts by King William he was immediately replaced in his former position, and sworn in on March 11, 1689.[1]

When interrogated by the parliament of 1689 he gave the following account of what took place previous to his discharge. "I was sent for by King James to Whitehall the last Michaelmas Term. I attended at Mr. Chiffinch's chambers. After I stayed awhile, King James came to me for my opinion on some points in a paper he had in his hand; it was about the dispensing power of the penal laws. I said 'I doubted his majesty could not dispense with those laws; but I could not give my opinion suddenly; upon reading the paper, I would consider further.' A little while after Chancellor Jeffreys was sent by the king to know my opinion. I said, 'I gave the king my sudden thoughts, but I would further consider of it.' A week after when I had considered more of it, I waited again,' &c. and gave my positive opinion 'that the king could not dispense,' &c. I sat quiet after this for some time; and before the circuit I was sent for to the same place; where was Mr. Justice Street. He was the senior judge; he gave his opinion and I mine. The chancellor made a long discourse and disapproved our reasons, as the king had done. So I was dismissed, and my commission not sealed till two days before the circuit. I took my leave of the king, and had my direction after the usual manner. I went with Mr. Justice Holloway, where were the king, the chancellor, Lords Sunderland, Rochester, and Godolphin. The king asked opinions; Holloway gave the same opinion with me. The chancellor disapproved—I was dismissed again. Monday before the term, I was sent for to the chancellor's house, who told me 'If I persisted in my opinion I must expect to

[1] 2 Shower, 434; Luttrell, i. 97, 296, 359, 375, 504, 509.

be discharged.' I said I must persist, for I had no reason to alter it, and would submit to the king's pleasure. About seven or eight days after, I had my quietus." [1]

In October 1691 Sir Edward was removed from the Exchequer to the court of Common Pleas; and on King William's death was reappointed to the same place by Queen Anne; under whom he sat for a little more than three years. He died at Hammersmith on August 8, 1705. He assisted in several of the state trials, and seems to have acted an honest and independent part on the bench.[2]

PARKER, THOMAS.

CH. Q. B. 1710.

See under the reign of George I.

POWELL, JOHN (JUNIOR).

JUST. C. P. 1702. JUST. Q. B. 1702.

See under the Reign of William III.

THIS is the third judge of the same surname, and the second of the same Christian and surname. As the two latter sat at the same time in the same court, it almost unavoidably followed that frequent mistakes occurred as to their identity. Several biographers, as Chalmers, Noble, Britton, and others, have run into this error, confounding the two, and mixing up the history of the Carmarthenshire judge, which has been already given, with that of the native of Gloucester, whose career is now to be related.

His family was originally resident in Herefordshire, but migrated to Gloucester; where his father held various municipal honours and was mayor in 1663. The judge was born there in 1645; and being intended for the law became in 1664 a member of the Inner Temple, by which society he

[1] Parl. Hist. v. 311.

[2] State Trials, xii. and xiii.; Luttrell, ii. 299, v. 580.

was called to the bar in 1671. In 1674 he was elected town clerk of his native city, and so satisfied were his fellow-citizens with his conduct that they returned him as their representative to the sole parliament of James II. in 1685. In September of that year he was turned out of his office, but was restored in 1687, having first been obliged to make an application to the court of King's Bench.[1]

At the Revolution he was included in the first batch of serjeants, and was previously complimented by being made a bencher of his inn. In May 1691, the king having ordered that the seat in the Common Pleas, made vacant by the death of Mr. Justice Ventris, should be filled by Mr. Powell, the serjeant named his officers and bespoke his robes: but by the interference of Sir John Trevor and others in behalf of Sir William Poulteney, the intended promotion was delayed till the king's return from Holland, when, Trevor's plot being counteracted, Mr. Baron Nevil was removed into the Common Pleas, and Powell was on October 27 appointed a baron of the Exchequer. He was thereupon knighted, and remained in that court till October 29, 1695, when he was transferred to the Common Pleas; where he sat till the death of the king. Three months after the accession of Queen Anne he made another change, and on June 24, 1702, took his seat in the court of Queen's Bench, which he graced, with universal esteem and respect, till the last year of her reign. He died at Gloucester, unmarried, on June 14, 1713, and was buried in the lady chapel of the cathedral, where a monument, with an effigy of him in his robes, records his judicial excellencies.[2]

During the two-and-twenty years he sat in one court or the other his conduct on the bench was without reproach, and in the last eleven he ably seconded the efficient rule of

[1] Rudge's Gloucester, 89; 2 Shower, 490.

[2] Luttrell, ii. 220, 229; Lord Raymond, 769; Rudder's Gloucester, 119.

Chief Justice Holt. Distinguished as a profound lawyer, he was equally respected in his private life. Dean Swift represents him in his letter to Stella of July 5, 1711, as the merriest old gentleman he ever saw, speaking pleasant things and chuckling till he cried again. When Jane Wenham was tried for witchcraft before him, and charged with being able to fly, he asked her whether she could fly, and on her answering in the affirmative he said, "Well, then, you may; there is no law against flying." The poor woman was saved from the effects of her own faith and received the Queen's pardon. His disbelief in witchcraft extended to fairies and ghosts, and a pleasant story is told of a trick he played on Dr. Fowler, Bishop of Gloucester, a zealous defender of their existence. After painting a spectre that appeared at his bedside one night "about the hour of twelve," and exciting the bishop by a vivid description of its fearful aspect and the terror it caused him, the judge concluded by explaining to his anxious listener that the ghost was nothing more than the old watchman, who had come into his bedroom to give him notice that the street door was open, and that if he did not shut it he would chance to be robbed.[1]

POWYS, LITTLETON.

Just. Q. B. 1702.

See under the reigns of William III. and George I.

POWYS, THOMAS.

Just. Q. B. 1713.

See under the reign of George I.

PRICE, ROBERT.

B. E. 1702.

See under the reign of George I.

[1] Fosbrooke's Gloucester; Notes and Queries, Second Series, i. 393.

SCROPE, JOHN.

COM. G. S. 1710.

THE possession of the Great Seal, even for the limited period of three weeks, entitles this gentleman to a place in these pages. Though short his career and trifling his services in this capacity, his merits were afterwards rendered highly conspicuous in another sphere. He was the son of Thomas Scrope of Wormsley in Oxfordshire, a mansion which had formerly been the seat of Colonel Adrian Scrope (a scion of the noble family of Scrope, barons of Bolton), who took a prominent part on the parliament side in the great rebellion, holding among other important offices that of governor of Bristol, and sitting in the high court of justice which condemned Charles I.; for which he suffered death as a regicide at the Restoration.

John Scrope, the lord commissioner, received his legal education at the Middle Temple, where he was admitted in 1686 and called to the bar in 1692. After practising for sixteen years he was in May 1708 appointed a baron of the Exchequer in Scotland; and while enjoying that office the removal of Lord Chancellor Cowper occurred; on which the Great Seal of England was placed in the hands of three commissioners, one of whom was Mr. Baron Scrope. They received it on September 26, 1710, and held it till October 19, when it was delivered to Sir Simon Harcourt as lord keeper. So ended Baron Scrope's judicial character in England; but in Scotland he continued to exercise the functions of a baron of the Exchequer till he was selected as joint secretary to the Treasury; when he entered parliament at the general election in 1722 as member for Ripon. In the new parliament on the accession of George II. in 1728 he was chosen for Bristol, his native city; and in those of 1735, 1741, and 1747 he represented Lyme Regis. His

senatorial exertions were confined to matters connected with the revenue, and his term of office comprehended the whole period during which Sir Robert Walpole was first lord of the Treasury. With that minister he was closely allied; and when, on Sir Robert's fall, a secret committee sat to inquire into his conduct for the previous ten years, Mr. Scrope, who was called upon to give evidence as to the disposal of above a million of money which had been traced to his and Sir Robert's hands as secret service money, refused to take the oath offered to him, and declared that he was authorised by his majesty to state "That the disposal of money issued for secret service, by the nature of it, requires the utmost secrecy, and is accounted for to his majesty only; and therefore his majesty could not permit him to disclose anything on that subject." The commons took no notice of his refusal, and he enjoyed his place for ten years after his patron's dismissal. Tindal says of him that he "was perhaps the coolest, the most experienced, and most sagacious friend the minister ever had."

He died on April 9, 1752, at a great age, leaving no issue. His estate of Wormsley is still in the possession of the descendants of Henry Fane, who married one of his sisters and coheirs, and whose eldest son became the eighth Earl of Westmoreland.[1]

SIMPSON, WILLIAM.

CURS. B. E. 1702.

See under the reigns of William III. and George I.

SMITH, JOHN.

B. E. 1702.

See under the reign of George I.

[1] Collins' Peerage, iii. 302; Luttrell, vi. 304, 633; Parl. Hist. xii. 823; Tindal's England (1759), xx. 138, 544.

TRACY, ROBERT.

B. E. 1702. JUST. C. P. 1702. COM. G. S. 1710.

See under the reigns of William III. and George I.

TREVOR, JOHN.

M. R. 1702.

See under the reigns of James II., William III., and George I.

TREVOR, THOMAS, LORD TREVOR.

CH. C. P. 1702. COM. G. S. 1710.

See under the reigns of William III. and George I.

TURTON, JOHN.

JUST. Q. B. 1702.

See under the Reign of William III.

THE grandfather of this judge, John Turton of West Bromwich in Staffordshire, had two sons, John and William; the former of whom was the ancestor of Sir Thomas Turton, created a baronet in 1796; and the latter of whom, by his wife, Eleanor daughter of Thomas Fownes, was the father of John, the subject of the present sketch.

John Turton was born at Alrewas, his father's residence in the same county; and becoming in 1669 a member of Gray's Inn, was called to the bar in 1673. At the general election for the last parliament of Charles II. in 1681, his name is contained in a double return for the town of Tamworth; but as the dissolution occurred before it had sat a week the claims of the candidates were never decided. History is silent as to Turton's conduct during James's reign; but that he was a friend to the Revolution, and distinguished among his legal brethren, is apparent from his being selected as a baron of the Exchequer on May 4, 1689, when King William first filled the judicial bench. He received the usual honour of knighthood, and sat in that court

for seven years, when he was transferred on July 1, 1696, to the King's Bench. There he continued during the remainder of William's reign, and was reappointed on the accession of Queen Anne in March 1702. On June 4 following however he received a message from the lord keeper that he might forbear to sit on the next day, the first day of Trinity Term, her majesty designing to give him his quietus; and he accordingly received his supersedeas on the 9th. This removal no doubt was caused by the prevalence of Tory politics, which then ran to great extremes. It became the fashion to decry all King William's acts; and even in an address to the throne the victories of the Duke of Marlborough were spoken of as signally "retrieving" the ancient honour and glory of the English nation. That Sir John Turton felt himself aggrieved may be well supposed; and the sentiments of his family on the subject were expressed by his grandson in a memorial presented to George I. in 1721, stating that the judge "fell the first sacrifice to the rage and malice of the enemies of that glorious prince [King William] at the very beginning of the succeeding reign, and that his disgrace was occasioned by his honest and firm adherence to the Revolution interest."

The only state trials in which Sir John is recorded as being concerned are Admiralty cases; in 1696 against Dawson and others for piracy, and Captain Vaughan for treason on the high seas: and in 1701, against Captain William Kidd (the commission to whom was the subject of one of the charges against Lord Somers), in several indictments for murder and piracy. In the two former he merely assisted the chief justice; but in two of the latter he presided.

He survived his discharge for six years and died suddenly on March 12, 1708. His wife was Anne, daughter of Samuel More of More and Linley in Staffordshire; and their eldest

son William having died in his lifetime, he was succeeded in his manor of Alrewas by his grandson John, the author of the memorial above alluded to, who was sheriff of the county in 1717 and 1721. Mr. Lackington, the bookseller, married the judge's great-grand-daughter, after she had by needle-work and keeping a school for some years supported her father who had dissipated a large fortune. There is a portrait of the judge at Gray's Inn, with an illuminated address on it extravagantly eulogistic, "Drawn, written, and composed by Joshua Bowles, late lieutenant."[1]

WARD, EDWARD.

CH. C. B. 1702.

See under the Reign of William III.

EDWARD WARD is described by Noble as a native of Northamptonshire, and Luttrell says that in 1697 he purchased an estate in that county of 2000*l.* a year. In his admission to the Inner Temple in 1664 he is described as of London; but I have not found any record of his lineage. He was called to the bar in 1670[2], and soon got into good practice. The tendency of his political opinions may be inferred from his being engaged by Lord Russell to argue points of law on his trial in 1683. He had married in 1676 Elizabeth the third daughter of Mr. Thomas Papillon, of Acrise in Kent, a merchant of London, who was afterwards a candidate for the office of sheriff of that city in the famous contest that took place in 1683. He brought an action against Sir William Pritchard the lord mayor for a false return, and the lord mayor in his turn brought an action against Mr. Papillon for a malicious arrest. Mr. Ward was one of the counsel

[1] Erdewick's Staffordshire, by Harwood, 234; Burke's Peerage, 994; Landed Gentry, 884; Luttrell, v. 181, vi. 278; 2 Lord Raymond, 768; State Trials, xiii. 451, 485; xiv. 221, 228; Lackington's Life.

[2] Noble's Cont. of Granger, ii. 181; Luttrell, iv. 277; Inner Temple Books.

employed to defend his father-in-law, and being obnoxious to Sir George Jeffreys before whom it was tried, not only on account of his politics, but of his known connection with the defendant, the chief justice took the opportunity of attempting to browbeat him. While making a very temperate statement, and endeavouring to show that there was probable cause for the arrest, Jeffreys rudely interrupted him, telling him that he did not understand the question at all, but that he launched out in an ocean of discourse that was wholly wide of the mark, and desired him not "to make excursions *ad captandum populum*, for he would suffer none of his enamels nor his garnitures." On Mr. Ward's attempting to explain, Jeffreys repeated his remarks so insultingly that the people hissed. This of course made the chief justice more irate; but at length he was obliged to succumb, silenced by the respectful firmness of Mr. Ward, and by a confirmatory sentence from Serjeant Maynard.[1]

In 1687 Ward was elected a bencher of his Inn; and at the Revolution he modestly declined a judgeship that was offered to him. But on March 30, 1693, he accepted the office of attorney-general, conferred by the king rather contrary to the wishes of Lord Somers, who desired to make him solicitor only. On June 8, 1695, he succeeded Sir Robert Atkyns as chief baron of the Exchequer, and was knighted soon after. In this office he remained during King William's life, and nearly all the reign of Queen Anne. For a brief interval of three weeks in May 1700, between the removal of Lord Somers and the appointment of Sir Nathan Wright as lord keeper, he held the Great Seal as one of the commissioners.[2]

He seems to have been an honest and intelligent judge, with sufficient legal knowledge and discretion; but his name

[1] State Trials, ix. 589, x. 336; Topog. and Geneal. iii. 35, 511.

[2] Clarendon's Diary, ii. 273; Luttrell, i. 522; 1 Lord Raymond, 57, 566.

is not distinguished by any prominence of character. He died at his house in Essex Street on July 16, 1714, a fortnight before his royal mistress; and was buried in a vault built for the family in the church of Stoke Doyle in the county of Rutland. By his wife he had twelve children. Two of his sons became lawyers of considerable eminence; and the family is now represented by G. Ward Hunt, Esq., the descendant of Jane, the chief baron's eldest daughter, and member for North-Northamptonshire.[1]

WRIGHT, NATHAN.

LORD KEEPER, 1702.

See under the Reign of William III.

KING CHARLES II. in the first year after his restoration created two baronets in the Essex family of Wright; the one, Sir Henry of Dagenhams, being the grandson of John Wright of Wright's Bridge near Hornchurch; and the other, Sir Benjamin of Cranham Hall, being his great-grandson. The latter was the eldest son of Nathan Wright, an alderman of London, whose younger brother, Dr. Ezekiel Wright, was rector of Thurcaston in Leicestershire, and by his wife Dorothy, sister and co-heir of Sir John Onebye, left a son, Nathan, the future lord keeper. Both baronetcies are now extinct, the first failing in 1681, and the last in 1738.

Nathan Wright was born in 1653, and was educated at Emmanuel College, Cambridge. He took no degree, but became a student at the Inner Temple on February 8, 1671. He is described in his admission as of Belgrave, which is nearly equi-distant between Thurcaston and Leicester. He was called to the bar on November 29, 1677; but more than a year before had married Elizabeth, daughter of George

[1] I am indebted for many particulars of the family to the kindness of Thomas Papillon, Esq., of Crowhurst.

Ashby of Quenby, who had been sheriff of Leicestershire. In 1679 he was enabled to purchase the estate of the Earl of Stamford at Boughton Astley[1]; and thus obtained such an influence in his native county, that he was chosen recorder of Leicester in 1680. He held the office (with a short interval when the town was deprived of its charter) till he was made lord keeper. On his resignation he presented to the corporation what was long after known as "The loving cup of Leicester;" which was sacrificed under the Municipal Corporation Act of 1835, but preserved by a private gentleman and exhibited to the Society of Antiquaries in 1851.[2]

In the trial of the seven bishops in 1688, Mr. Wright was engaged for the prosecution, and Luttrell then calls him "Young Mr. Wright." He was the junior counsel and only opened the pleadings, taking no other part in the discussion.[3] In 1692 he was one of the fourteen called to the degree of the coif, and Lord Raymond in his Reports (i. 604) notices that he always took place of Serjeant Bonithon, to whom he was junior by admittance, because his writ of summons bore teste before that of Bonithon, though they were returnable the same day; but that when he became lord keeper he decided in a similar question, in direct contradiction to his own case, in favour of the right of seniority. Five years after, in January 1697, he was made king's serjeant, and knighted. Luttrell states that he received these honours for his learned arguments in the House of Lords in support of the bill of attainder against Sir John Fenwick; and Speaker Onslow in his notes on Burnet says that he managed the business so well as to raise his character very much at the time. Unfortunately his speech is not reported in the state trials; but that collection contains those made by him as counsel for the crown against the Earl of

[1] Inner Temple Books; Reg. St. Andrew's Holborn; Nicholls' Leicester.
[2] Proceed. of Soc. of Antiq. ii. 147. [3] State Trials, xii. 280.

Warwick for murder, against Mr. Duncombe for falsely indorsing Exchequer bills, and against Mary Butler for forging a bond for 40,000*l.*; and also when employed in 1700 for the Duke of Norfolk in support of the bill for dissolving his marriage. Luttrell also frequently notices his legal engagements.[1]

When King William in 1700 took the Tory party into power and dismissed Lord Chancellor Somers on April 17, he must have been somewhat surprised at the difficulty he found in filling the vacant office. The two chief justices and other great lawyers of the time declined to accept the Seal; the former no doubt being satisfied in the security of their present positions, and all perhaps influenced either by "the instability of the court," or by "the just apprehensions they might have of succeeding so great a man." Easter Term was then about to commence, and the business of the Chancery could not be interrupted without great inconvenience. The Seal was therefore temporarily placed on May 5 in the hands of the chiefs of the three other courts, together with the master of the rolls; and in the meantime negotiations were going on, which were at last ended by Sir Nathan Wright accepting the responsible office of lord keeper on May 21. In the next parliament he presided on the trial, and pronounced the acquittal, of his predecessor; and at the end of the session he was appointed one of the lords justices during the king's absence abroad. A new parliament met in December 1701, but before the termination of its first session the king died on March 8, 1702. Queen Anne confirmed the Tories in the ministry, retaining the lord keeper. The only subsequent proceedings connected with his name of any importance are his acting on a commission for the union with Scotland, which owing to the difficulties raised by the Scots was not at that time

[1] Luttrell, i. 446, iv. 164; Burnet, v. 219; State Trials, xiii. 954, &c.

successful; and his returning the thanks of the House of Lords to the Duke of Marlborough on the close of the campaign of 1704, which was signalised by the battle of Blenheim.[1]

In the following year, the Whigs having regained their ascendency, Sir Nathan, who had failed to acquire the respect of either party, was obliged to retire, and the Seal on October 11, 1705, was placed in the more competent hands of William Cowper. Though Sir Nathan was a good common lawyer he was accounted a weak and inefficient keeper; but still, there was no complaint of his decisions in equity. Burnet, with no friendly feeling towards him, and depreciating him for his Tory tendencies, is obliged to testify that he never heard him charged with anything but great slowness, by which the Chancery was become one of the heaviest grievances of the nation: and though he says that money did everything with the lord keeper, who was sordidly covetous, yet he acknowledges that he never heard him charged with bribery in his court. A story is told of a watchmaker, a day or two before the hearing of a suit in which he was a party, sending a very fine time-piece to the lord keeper, who returned it with a message, "That he had no doubt of the goodness of the piece, but it had one motion in it too much for him." Burnet alludes to a "foul rumour" of livings being set up for sale by the officers under him; and Speaker Onslow adds in a note that in Baron Bury's book of accounts it appeared that the baron had given the lord keeper 1000*l.* for making him a judge. Whatever truth there may be in this scandal, there is no doubt that he became extremely rich, that he obtained a valuable office for his son, and bestowed the best livings on his poor relations. He survived his removal from the Seal for sixteen years and died on August 4, 1721, at Cancot Hall in Warwickshire.

[1] 1 Lord Raymond, 567; Parl. Hist. v. 1313, vi 27, 374.

His remains were removed to a manor he had purchased at Gothurst near Newport Pagnell, in the church of which there is a monument with his effigy in white marble. His wife was Elizabeth daughter of —— ——, by whom he left several children. One of his sons was clerk of the crown, another was recorder of Leicester, and a third was a clergyman and married a grand-daughter of the Marquis of Winchester.[1]

[1] Burnet, v. 139, 219; Maxby's Secret Services (1733), 41; Noble's Contin. of Granger, i. 35; Evelyn, iii. 382.

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